

THE *See 11*
PRACTICE
OF THE 33
COURT of ADMIRALTY
IN
ENGLAND AND IRELAND.

To this EDITION is added,
An ACT of PARLIAMENT for the
Encouragement of SEAMEN, &c.
Made in the XXIXth Year of the Reign of his
present MAJESTY.

Together with
The PROCLAMATION for the
Distribution of PRIZES;

Which Regulates the PRACTICE in the
CROWN AND PRIZE CAUSES;
ALSO,
ARTICLES RELATIVE TO PERQUISITES.

NECESSARY FOR ALL
PRACTITIONERS, MERCHANTS, INSURERS,
SEAMEN, and others that may have any
Business in the COURT of ADMIRALTY.

D U B L I N :
Printed for RICHARD WATTS, at the Bible
in Skinner-Row. MDCCLVII.

1757

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OF THE

COURT OF ADMIRALTY

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TO THE
Right Worshipful

Robert Fitzgerald, Esq;

JUDGE of His MAJESTY's High
COURT of ADMIRALTY

IN
IRELAND.

SIR,

TH O' I have not the
Merit of an Author,
I have taken the Li-
berty of addressing the fol-
lowing Collection to you.
It pretends to no other Re-
commendation than that of
placing before you at one
View, the Practice of the

DEDICATION.

Court of Admiralty in its different Branches, which you have often had in your Hands in distinct Tracts.

IT has a better Claim to the Favour of the Public; as nothing can contribute more to the Honour of Judicature, than that the Technical Learning used in your Decisions, should be made familiar to all who may happen to attend them.

BUT if any Apology should be thought necessary to be made to the Public, or to you, for a Publication

DEDICATION.

cation of this Kind, I shall profess freely, that I had no Design of entering upon the Undertaking, till prompted to it by your Advancement to the Office of Judge of the Admiralty, and by the Hopes which every Body entertains, of the growing Reputation of that Court, under your Administration.

OUR Mother Country, the Admiration and Envy of the World, for her free and impartial Distribution of Justice, has been long since imitated by us in the

DEDICATION.

Exercise of her Domestic Laws; but as to that general Law, which she participates with foreign Nations, (thro' which so much Property in Time of War, is adjudicated) she has but just now seen us effectually follow her Steps.

IMPROVEMENTS in the Manner of administering Justice, as in every other Science, are the Produce only of superior Worth and Abilities: Nor can we hope to see Tribunals respected, unless they are regu-

DEDICATION

lated by Integrity, Knowledge, and Spirit.

His MAJESTY, attentive to the Security and Prosperity of all his People, has recently shewn how dear his good Subjects of IRELAND are to him, in placing a GENTLEMAN at the Head of the MUNICIPAL Law in this Kingdom, who was in every Respect, the fittest Person that could be found to execute that high and arduous Employment.

AND with respect to the MARINE LAW, on which his MAJESTY's Connections

DEDICATION.

ons with foreign States so much depend, his Majesty's Care of the Interests of his Subjects, and of his own Honor, has not been less visible, in the Choice he has made of a Person to preside in the COURT of ADMIRALTY.

I am extremely fortunate in an Opportunity of professing my Respects in this public Manner, and of declaring how much I am,

S I R,

*Your most obedient,
and most devoted Servant.*

DUBLIN, April, }
25, 1757.

RICHARD WATTS.

THE
PUBLISHER
TO THE
READER.

HAVING been importuned
by many Gentlemen of Bu-
siness, to collect some Particulars
for the Press, which might give
an Insight into the Jurisdiction and
Practice of the Court of Admi-
ralty, I have accordingly thrown
together the Practice in Instance,
or Civil Causes, collected from

Mr.

Mr. CLERK, and the Act of Parliament, and Proclamation, which regulates the Practice in the Crown or Prize Causes, together with the Articles relative to the Perquisites ; the Three principal Branches of the ADMIRALTY JURISDICTION. The Law which is the Foundation of the Decisions in this Court, is contained in the Laws of RHODES, and OLERON, GROTIUS, PUFFENDORFF, CORPUS JURIS CIVILIS, under the proper Titles, with the Comments

ments of VINNIUS, PECKIUS, JOHANNES LOCINIUS, FABER, BALDUS; also our MOLLOY, *Il Consolato del Mere*, *Decisiones Rotæ Genuæ de Mercatura*, and several other Marine Treatises, which are often to be met with, collected together in one Volume. To these we must add the several Treaties subsisting between his MAJESTY and Foreign States, which in many Instances restrain and vary the general Law. The Limits and proper Jurisdictions of this Court, will be best seen in the

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the Modern Common-Law Reports, to which I refer the curious Reader. As to Presidents for Pleadings, I thought it would swell the Work to an immense Size, or I could have inserted many of them; it would besides exceed the Intention of those Gentlemen who desired this Publication. It is necessary to observe that all the Proceedings in this Court are summary, or as the Civilians say, *velo levato*.

THE

THE
PRACTICE
OF THE

Court of Admiralty

OF
ENGLAND.

Tit. 1. *Of the Manner of beginning or instituting an Action in the High Court of Admiralty of England, and the Tenor of the Judge's Original Warrant or Mandate.*

WHOEVER has an Action in a Civil or Maritime Cause, against any Person or Goods, must obtain the Judge's Warrant or Mandate to these respective Effects, viz. To arrest and lay hold of the Defendant, and to detain and keep him in safe Custody till he has made a legal Appearance or be forthcoming on such a Day, viz. On the Third, Fourth, Fifth, Sixth, Seventh, Eighth or Tenth Day after the
B Arrest,

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Arrest, if it be a Court-Day; otherwise, on the next Court-Day following, in some Place where Justice is administer'd, before the Honourable Lord High Admiral or the President, Lieutenant, or Judge of his High Court of Admiralty, to answer as to Justice shall appertain to *N. Merchant of London*, in a certain Civil and Maritime Cause.

2. Of the Direction of the Warrant.

THE Warrant is *made out* in the Name of the Lord High Admiral of England, directed to all and singular the Justices, Constables, Mayors, Bailiffs, and others His Majesty's Officers, and especially to *N. Marshal of the Court*. *Such Warrants are usually drawn by the Register, without a Judicial Decree*; after the Manner of an ordinary Citation in the Ecclesiastical Courts.

3. How the Warrant is to be executed.

THIS Warrant is to be delivered to the Marshal of the Court, that is, a certain Officer employed by the Court for that special Purpose, if the Person to be arrested, dwells within the City of *London*, or Suburbs, or neighbouring Places; otherwise, to some Mayor, Bailiff, Constable, or any other Officer whatsoever, of the City, Town, or Village where the Person to be arrested

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rested dwells, who by Virtue of the same, shall arrest the Defendant, intimating to him the Cause of the Arrest: And if the Person so arrested, can give good and sufficient Security for a legal Appearance on the Day and Place specified in the said Warrant, to answer to the Plaintiff in the said Cause, he is to be set at Liberty; but if he cannot give Caution to that Effect, then he is to be committed and kept under Arrest, till he find such Security.

4. Of the Caution or Security to be given by the Person arrested, for a legal Appearance.

IN the Label of every Warrant which is to have the Seal of the Lord High Admiral to it, is wont to be set down the Sum upon which the Action is instituted, in these Words, (an Action of Five Pounds). Therefore, the Security taken from the Person arrested for his legal Appearance to the aforesaid Effect, must be in the like Sum. And the Officer or Bailiff, that executes the Warrant, must take Care to have able or sufficient Bonds-men lest an Action be brought against him, if the Defendant by him set at Liberty, should not appear. Such Security being taken, the aforesaid Warrant, together with the Bond, is to be remitted to the Judge, or delivered to the Plaintiff before the Day appointed for the Defendant's Appearance,

ance, together with the Person's Name who executed it, and the Day and Place where the said Warrant was executed.

5. *What is meant by a Legal Appearance.*

IF the Party himself, or his Proctor, doth personally appear on the Day appointed, by Virtue of the Warrant, together with his Securities bound to the respective Effects mentioned in the Eleventh Tit. of bringing Security into Court; then it is said to be a *lawful Appearance*; else not. But if the Defendant appears personally, without his Securities to the aforesaid Effects, he is by the Judge to be committed to Prison, and kept there as long as the Suit lasts, unless he gives Security in the mean Time. But the Judge may upon some Occasions accept of a Juratory Caution, that is, the Person's Oath for his Appearance, and the same Effects for which Securities ought to have been brought; at least, if he is satisfied the Party is so poor that he cannot give Security. And in case the Party should bring the said new Securities, or be committed to Prison for not bringing any, the first Securities are released from their Obligations for making lawful Appearance, and the Bond in that Behalf given, is to be delivered up, and the Person arrested to be set at Liberty.

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6. *Of certifying the said Warrant.*

THE Plaintiff's Proctor ought to draw a Certificate of the Execution of the said Warrant at length, and get it sealed by some Authentical Seal, (like the Certificate in the Ecclesiastical Causes;) or the Mandatory or Marshal of the said Court, who executed the Warrant, shall personally in Court certify the Execution thereof.

7. *Of a Proxy to carry on the Cause, and the Manner of constituting him, apud acta, i. e. in the Book of Act.*

A Proxy for carrying on Civil and Maritime Causes, is the same as a Proxy in the Ecclesiastical Courts, and contains all those general Clauses and special Powers, which in a general Proxy in Ecclesiastical Cases, gives the Person appointed [a Power and Mandate for managing all Causes and Businesses]; but in this Proxy for Civil Affairs, the Words [*Civil and Maritime*] are to be added to [*Causes and Businesses*]. And whereas in Ecclesiastical Causes, the Proctor has Power given him to petition for the Benefit of Absolution and Release from all Sentences of Suspensions, Excommunications, or Interdicts pass'd or to be pass'd by the Law or the Judge, either simply or conditionally; that Clause is to be

The Practise of the

omitted here, and this is to be inserted in the Room of it. *viz.* That the Party constituting does give to his Proctor Power of exhibiting and bringing in legal Cautions and Securities, and also of praying and obtaining the same from the adverse Party.

8. Of the Petition presented by the Plaintiff's Proctor at the Return of the Warrant.

I N. exhibit my Proxy in Writing, or at the Acts of Court, (if the Proctor be constituted in that Manner) for N. and I make myself Part for the same; and I exhibit the Original Warrant, with a Certificate endors'd, or the Mandatory has personally attested upon Oath, the Execution of the same in Court; and I accuse N. of the Contumacy, who has been arrested, for not appearing on this Day and Place, according to the Tenour of the Warrant, and the Caution and Bond in this Cause before taken, and remaining in the Registry, or now by me exhibited. Wherefore I pray he may be held contumacious, and in Pain of such his Contumacy, I pronounce, that he has incurred the Penalty of his Bond. Then the Judge shall cause the Defendant to be thrice called by the Marshal of the Court, and if he does not appear, shall decree that he has incurred the Penalty of his Bond, and that he shall be taken into Custody till he has satisfied the Penalty.

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nalty. But in this Case of the Defendant's not appearing, it is usual for the Judge to allow the Plaintiff a reasonable Part of the Sum forfeited, in Consideration of the Suit being retarded, and dispose of the rest as he thinks fit.

9. *Of the Defendant's Petition in case the Plaintiff fails to appear on the Day appointed by the Execution of the Warrant, and refuses to prosecute the Suit.*

IF the Defendant himself, or his Proctor, appears according to the Arrest, and the Bond by him interposed for that Purpose, then the Defendant or Proctor exhibiting his Proxy in Writing, or in the Acts of Court, shall say, *I alledge that N. now present in Judgment, was and is arrested by the Authority of a Warrant from this Court, to appear on this Day and Place, to answer M. in a Civil and Maritime Cause; and that Securities have been given for his personal Appearance, but that the Plaintiff has not either by himself or his Proctor, taken Care to prosecute the Suit, and that my Client is ready and prepared to give sufficient Securities, that he will answer the Plaintiff in the Cause or Action begun by him, according to the Exigency of Law and the Style of this Court. Wherefore I pray my Client may be dismiss'd, together with Costs, and that the Caution given for his Appearance,*

ance, may be cancelled and decreed void: Then the Judge shall cause the Plaintiff to be thrice publicly called by the Marshal of the Court, and if he neither appears himself, nor by his Proctor, nor takes Care to prosecute the Suit; the Judge may, if he pleases, decree according to the Petition of the Defendant's Proctor, and condemn the Plaintiff in Charges, or he may decree that the Plaintiff shall not hereafter be heard before he has paid the Defendant's Charges; or the Judge may allow a Court-day or two longer, in Expectation of the Plaintiff's Appearance, and then the Decree as is said above; or the Judge may (which is the most usual Way) decree the Party to be summon'd against a convenient Day, in order to prosecute the Suit, upon Penalty of final Dismission, and paying the Costs: And if the Plaintiff after this Summons should not appear, the Defendant is to be dismiss'd, as aforesaid, together with Costs. And a Schedule or Bill of Costs being given in, is to be taxed and moderated by the Judge, and Oath being first taken upon the Taxing of them, that they are really disbursed. The Taxing of Bills of Costs, and Admonition that is given for the Payment of them, and other incident Circumstances, are much the same as in Ecclesiastical Causes, with this Exception only, That in the Admonition given for the Payment of Costs in Civil Causes, there is
no

an Arrest joined with it, in case the Party should refuse to pay the Charges as they are taxed by the Judge, within the Time allowed by the Admonition. And take Notice, that although the Defendant, after he is arrested as aforesaid, to make his legal Appearance and answer in such a Civil Cause, does not personally appear, but by his Proctor lawfully constituted, and his Securities bound to the Effect aforesaid; it shall be look'd upon to be a lawful Appearance.

10. *Of the Proctor's Petition hinc inde, that is, on both Sides.*

IF the Plaintiff himself, or his Proctor, appears on the Day the Defendant is to make his Appearance, and accuses the Defendant's Contumacy, (as is said before, under the Title of *The Proctor's Petition at the Time of the Return of the Warrant*;) then the Defendant appearing, according to the Bond before by him interposed, shall himself, or by his Proctor say, *I pray that a Libel and Bonds-men may be given in by the adverse Party, or that my Client may be dismissed, together with his Expences.* Then the Plaintiff's Proctor shall first and before all Things say, *I desire the Defendant may give proper Security according to the Exigencies of Law, and the Style of this Court.* After which, the Judge shall assign the next

next Court-day for both Parties to give in their Securities, and direct the Plaintiff to present his Libel the same Day.

II. Of the Securities to be given by the Defendant, and the Bond they enter into.

THE Defendant ought to give Securities to these Effects, to abide in Judgment till the Suit be determined to pay Charges, and whatsoever else is adjudged, to confirm and allow of the Proctor already appointed, or to be appointed; which Securities ought to submit to the Jurisdiction of the Court, and to renounce all Privileges and Exemptions, and then by Bond, given either to the Judge, or by his Order and in his Presence, to the Register, they shall acknowledge themselves indebted to the Plaintiff in such a Sum, that is, the Sum for which the Action is brought, with these Conditions, That if the Plaintiff shall cast the Defendant, then the Defendant shall not only pay the Plaintiff the principal Sum or Thing adjudged, but the Charges of the Suit as the Judge shall tax them; and that they will produce the principal Party in the Court, as often as his personal Appearance is by the Law required; and that the Defendant shall ratify whatever his Proctor does, and every one of the Securities is bound for the whole. But observe here, that

the Judge, if he find Cause, may moderate the Sum in which the Securities are to be bound, because it sometimes happens, that the Plaintiffs institute their Actions for a much greater Sum than is due from the Defendant; to the End, that he not being able to find Security for so large a Sum, may be thrown into Prison.

12. Of the Petition and Protest of the Plaintiff's Proctor, at the Time of the Defendant's introducing his Securities.

FOrasmuch as it sometimes happens, that the Defendant offers the Plaintiff Persons for his Security that are unknown, and often insufficient, His Proctor therefore in that Case must dissent, and protest against their Admission or Reception; and that he will petition for having more proper and substantial Ones, if they shall appear to be insufficient. This Protest is highly necessary, lest by consenting and allowing of them at first, you should lose the Privilege of demanding better hereafter.

13 Of the Securities brought on the Part of the Plaintiff and his Bond.

THE Plaintiff is likewise to give Security to these Effects, viz. That he will persevere in his Prosecution of the Suit; that he will pay the Defendant's

Defendant's Charges, if he be cast; that he will ratifie his Proctor, and that the Plaintiff shall appear personally in Judgment, as often as the Law and the Style of the Court requires. For you must know, that (*quemadmodum actor*) the Plaintiff may make Use of the Defendant's Answer to the Articles of the Libel, or any other Matter of Defence, Exceptions, or Allegations whatsoever, brought by him. And here likewise, it is convenient the Defendant's Proctor should protest when the Securities are offered, as the Plaintiff's Proctor did before.

14. Of the Proctor's Petition for better and more sufficient Security.

ALtho' Securites are given by each Party, and the Suit contested, or perhaps a Conclusion made in the Cause; yet if the Securities on either Side are insufficient, the Proctor of the adverse Party in that Case shall say, *I alledge that such a one and such a one, produced as Securities for N. in this Cause, neither were nor are proper and sufficient, regard being had to the Weight of the Cause, (that is, if the Action be of any great Value) and that the said Securities, or such a one of them, is by his Acquaintance and Neighbours accounted a poor Man, at least not worth such a Sum, (mentioning one much less than the Action is brought upon) and therefore, I desire*
fit

fit and sufficient Securities may be given by the adverse Party, or that a Decree be made for taking him up, till he has brought good and sufficient Security. Then the Proctor of the adverse Party shall say, *I dissent and protest as to the Nullity of this Petition, and deny that it is true; and I alledge that my Client has in this Cause brought good and sufficient Security, and that the Persons who are his Securities are wealthy and rich enough to answer the Action instituted, and that they are commonly accounted, held and reputed as such, and therefore my Client ought not to be obliged to give any farther Security in the Cause. And you are to take Notice, that although all the Securities brought by the Defendant were at first sufficient and responsible, yet if they fail to be so afterwards, the Defendant in the aforesaid Case is to find others; and the same if during the Suit the Securities of either Party happen to die.*

15. *Of the Judge's Decree upon the Petition for fresh Security.*

UPON this Matter or Question, that is, whether the Sureties are sufficient? The Judge may, and is wont to determine briefly, lest the principal Cause should be allayed by that Dispute, and the Parties aggrieved with endless Expences. If the Judge can immediately inform himself of the Truth of that

Matter by any that are present, for there are generally some present, that are acquainted with the Circumstances of the Securities; then he shall order the Party to bring new and better Securities against the next Court Day, or any other that he shall appoint; but if the Premises cannot be made appear, the Judge shall assign a Time to hear his Pleasure.

16. *Of the Manner of proving the Sufficiency or Insufficiency of the Securities.*

A Full and exact Proof is not requir'd in this Case; therefore, if he who alledges the Insufficiency of the Securities, can procure a Certificate under the Hand of the Collector of the King's Tax in the Country where the Securities dwell, that they either pay very little or nothing at all; or if it be certified under the Hand of some of their Neighbours, honest Men and known to the Judge, that they are reputed poor, at least not worth such a Sum; the Judge may then decree as before. On the other Hand, if the Party proves the Sufficiency of his Securities either by the same Means or otherwise, then the aforesaid Petition is to be rejected, either expressly or tacitly by proceeding to other Things contrary to the Petition.

17. *Of the Caution to be given by the Principal Party, for the Indemnity of his Securities.*

AT the same Time that the Securities enter into Bond, the principal Party is to be bound, not only to all the other Effects, to which the Securities are bound, but to bear such Securities harmless, with respect to the Caution by them given; and this Caution of the principal Party, is generally in double the Sum that the Securities are bound in, or at least a much greater, as the Judge pleases to direct.

18. *Of giving or offering a Libel.*

THE Securities being produced on both Sides, the Plaintiff's Proctor shall say, *I give a Libel; and desire a Decree for proceeding summarily and plainly.* Because all Civil and Maritime Causes are Summary Causes, and the Proceedings in them are to be in the same Manner as in Ecclesiastical Causes; that is to say, It is to be decreed, that the principal Party shall appear, a Probatory Term is to be assigned, the principal Party and the Witnesses are to be produced in Judgment, a Commission is to be granted for examining Witnesses in remote Parts, as well within as without the Kingdom. And if the Parties to be examined dwell under the Juris-

diction of another Judge than whom the Cause is before; then in supply of the Law, that Judge's Authority is to be implor'd for the Execution of the Commission; and that Commission is to be proceeded upon; and afterwards is to be certified to that competent Judge who granted it; and the Publication of the Witnesses is to be desired and decreed, and the whole Proceedings till the final pronouncing of the definitive Sentence, are to be in all Respects, the following excepted, as in summary Ecclesiastical Causes.

19. *Of the Manner of Witnessing a Personal Decree for answering the Articles of the Libel, in case the Defendant cannot be cited; and of the Judge's Decree.*

Notwithstanding every Original Mandate or Warrant contains an Arrest of the Defendant, yet a personal Warrant or Decree for the principal Party to answer the Positions of the Libel, contains only a Citation as in Ecclesiastical Causes. But if the Defendant abscond, so that he cannot be personally cited, then the Mandatory is to certify the same upon Oath, or it is to be done by an authentick Certificate, as in Ecclesiastical Causes; and there must be a Petition that the Securities may be called upon to appear on some competent Day, to produce the principal Party,

ty, under the Penalty of the Bond by them entered into. Then the Judge may decree, but it is left to him whether he will at that Time decree against the Securities, or first decree that the principal Party shall be cited personally, if that can be done, or by all other Ways and Means which are most likely to give him Notice of the Citation; as, by affixing the Mandate upon the Doors of his usual Habitation, or upon the Doors of the Parish-Church, or if he be a Merchant, by fixing it up at the Exchange, at the Time of high Change; and then if the Party appears, by another Mandate Decree the Sureties to be called upon, as aforesaid, to produce the principal Party. And you are to observe, that every thing here said of the Defendant and his Securities, is applicable to the Plaintiff and his Securities, in Case the Defendant intends to make Use of the Propositions and Allegations propounded and alledged by the Plaintiff. And you must also observe, that altho' 'tis here said, that if the Defendant absconds, a new personal Citation is to be decreed, if possibly he may be found that way; yet upon the return of the first Warrant or Citation for the Appearance of the principal Party, if he absconds, the Judge may decree him to be arrested (if he can be taken) till he appears; and if he cannot be taken or arrested, then to be cited by all Ways and Means, as above-mentioned.

20. Of the Proctor's Petition in behalf of his Client the Plaintiff, in Case the Defendant's Securities, after they are admonished, do not appear and produce the principal Party.

THE Plaintiff's Proctor shall say, I exhibit the Original Warrant; together with a Certificate endorsed of the Execution of the same, or which the Mandatory has personally certified in Court; and I accuse N. and N. the Defendant's Securities of Contumacy, being admonished to produce personally on this Day and Place the principal Party, to answer personally the Positions of the Libel; or being cited to appear for, or produce the principal Party on this Day and Place, to the Effect aforesaid, according to the Obligation by them entered into; or to shew Cause why they should not be declared to have incurred the Penalty of Contumacy: Wherefore, I desire that they may be reputed Contumacious, and declared to have incurred the Penalty of Contumacy; and that it be decreed, that they be taken into Custody till they have paid the Penalty. Then the Securities are to be thrice called by the Marshal of the Court, and not appearing, are to be pronounced Contumacious, and to have incurred the Penalty of Contumacy. But here it is to be noted, that altho' it is in the Judge's Power so to do, yet it is not usual to defer the Appearance

Appearance of the Securities, to another Court-Day; but if he does, let the Proctor take care to see the Certificate be continued upon the Warrant against the Securities, upon the Day given by the Judge to deliberate; that if the Securities do not comply with the Contents of the Warrant, he may accuse them of Contumacy, and desire as aforesaid, which he may not do if the Certificate be discontinued. And observe that if the principal Party appears within a Day or two after the Interposition of the Decree, that the Sureties have incurred the Penalty of their Bond, and are to be taken up; and before the said Decree against the Securities is put in Execution, that then the Judge, notwithstanding the aforesaid Decree, may moderate the Penalty as he pleases; but so, however, that some Part of the Sum thus moderated may be given to the Plaintiff, in Consideration of his Expenses by the Delay of the Process.

21. *Of the Petition presented by the Securities, in case they do not appear upon the Day appointed to produce the principal Party.*

ALL Actions instituted or begun in the Court of Admiralty, are commonly between Merchants of our own Country or Foreigners, for Masters of Ships and Mariners. Therefore, if the principal Party, whom the Securities are call'd

call'd upon to produce, is either beyond Sea, or in some remote Part of the Kingdom, at the Time he should appear; the Securities, in that Case, to purge themselves of Contumacy, ought to appear and allodge the Reasons why the principal Party does not appear; and to allodge, that they are ready to produce him upon any competent Day to be assigned by the Judge, and if they prove or make out the Truth of their Allegations, the Judge ought, and is wont to appoint a competent Day for the Securities to produce the principal Party; to the aforesaid Effect, according to the Distance the Principal is at: Against which Day the Plaintiff's Proctor ought to desire the Continuation of the Certificate by him before given in against the Securities, that if they fail to appear and produce the principal upon that Day, he may accuse their Contumacy, and desire they may be declar'd to have incurr'd the Penalty of their Bond. The Plaintiff's Proctor may moreover, for the greater Caution, desire the Judge to order their Securities, after they have made the Allegations, and petition'd, as aforesaid, to appear personally upon the Day assigned them for producing their Principal, to hear themselves declared to have incurr'd the Penalty: In case that Decree of their having incurr'd the Penalty, can be decreed, upon pain of double Contumacy, if they fail to appear and comply with the said Warrant and

Judical

Judicial Admonition, as is said before, served upon them. Here two Things are to be observed, first, if the Plaintiff or his Proctor suspects that the Defendant's Securities do desire a deliberatory Term for producing the principal Party, with a Design of protracting the Suit; and upon the Day of their Appearance alledge some frivolous Excuse in order to get more Time, such as that the principal Party is sick, or so indebted that he dares not appear, or if they should not before that Time desire a Commission for his Examination; he then upon the first Application of the Securities for a Deliberatory Term to produce the principal Party, may move the Judge to oblige them to make use of the Benefit of a Commission for the Examination of the Defendant, upon pain of being denied the same Privilege hereafter. The second is, that the Judge may, if he see Cause, or through Favour, admit a Proctor to appear for the said Securities, to alledge the Cause why the principal Party is absent, and to desire Time for his Appearance, or a Commission for his Examination; but in this Case it is necessary to continue the Certificate to the next Court-Day appointed for the principal Party's Appearance, that if he is not produced by the Securities, the Judge may declare them to have incurred the Penalty of Contumacy, which cannot be done if the Certificate of the Warrant's being served

served upon the Securities to be discontinued.

22. *Of the Manner of producing the principal Party and Witnesses, and the Penalty to be inflicted upon them, in case they do not submit to their Examination upon Oath.*

THE Witnesses and principal Party are to be produced and sworn, (in the same Manner and Form as in Ecclesiastical Causes) to undergo their Examination within the Time appointed by the Judge, under some pecuniary Penalty by him named, as of Fifty Shillings, or Five Pounds, according to the Moment of the Suit: And if they refuse to undergo the Examination within the Time allotted, they are to be accused of Contumacy, and condemn'd in the Penalty aforesaid, and there is to be a Decree for their being taken into Custody till they have paid the same, and undergone their Examination. This Penalty or Money is to be dispos'd of at the Discretion of the Judge to Charitable Uses, especially to poor Prisoners, and sometimes to the Plaintiff, if he is poor, in Consideration of the Process being retarded by the Delay of the Witnesses or principal Party. But 'tis customary for the Judge to shew Favour to these Witnesses and principal Party, by deferring to condemn them in the Penalty

Penalty aforesaid for a Court-day or two.

23. *Of Letters Compulsory, against Witnesses that refuse to give their Testimony.*

THE necessary Witnesses being requested, and the Charges of their Journey offered them, as is usual in such Cases if they refuse to appear, there is a Decree to go from their being taken into Custody, and imprison'd till they will appear.

24. *Of another Method of proceeding in a Civil Cause, where the Defendant is so indebted that he cannot be arrested, and of the Warrant in that Case.*

AL L that is contained in the foregoing Chapters, is to be understood when the Defendant has personally been arrested in a Civil Cause. Now we shall treat of attaching his Goods: If therefore he is out of the Kingdom, or so absconds that he cannot be arrested, then if he has any Goods, Wares, Ship, or part of a Ship or Vessel upon the Sea, or within the Flux and Reflux of the Sea, a Warrant is to be taken out to these Effects. *To arrest such Goods, or such a Ship, belonging to the Defendant, Debtor, in whose Hands soever they are; and upon the Attachment of such Goods to cite the Debtor specially*

specially and generally. All others who have or pretend to have any Right to, or Interest in the said Goods, to appear on such a Day, to answer the Plaintiff in a certain Maritime and Civil Cause.

25. *Of the Execution of the said Warrant.*

THE Marshal or some other Officer belonging to the Judge shall arrest the said Goods, wherever they are to be found, and shall keep them in safe and secure Custody. He shall also at the Time of the Arrest, cite the said Defendant, and all others having, or pretending to have any Right or Interest in such Goods; publicly declaring to all that are present, and to such as are in Possession of the said Goods at the Time of the Arrest, that he peremptorily cites the said Defendant, and all others having or pretending to have any Right or Interest in the said Goods, to appear all and every of them on the Day and Place specified in the Warrant, to answer the Plaintiff in a Civil and Maritime Cause.

26. *Of certifying the said Warrant.*

THE Warrant is to be certified by the Marshal, who is at the same Time to deliver up a Schedule of the Goods arrested, the Day when, and Place where the Execution was, and that

that he cited the Defendant according to the Tenour of the same. But if the Mandatory, who executed the Warrant, be in some remote Part of the Kingdom, so that he cannot personally certify, then the Execution is to be certified by an authentick Certificate, as is said before in the first Warrant. *Tit. 6. l. 90.*

27. *Of the Judicial Exhibition, or Manner of bringing in the said Warrant; and the Proctor's Petition in Behalf of his Client the Plaintiff.* 2

I *N* exhibit my Power in Writing, bearing at the Acts of Court, under Seal, and make myself Party for him, and I exhibit the Original Mandate with a Certificate endorsed, or which the Marshal has personally certified in Court, and I accuse the Defendant cited, of Contumacy, and all others having or pretending to have any Right to, or Interest in the Goods arrested, that have been cited in general to appear on this Day and Place, in order to answer the Plaintiff in a Civil and Admiralty Cause. And I desire them and every one of them may be reputed contumacious, and in Penalty thereof declared to have incurred the first Default. Then Proclamation being thrice made for the Persons specially and generally cited, and they not appearing, the Judge shall pronounce them to be reputed contumacious, and in Penalty of such Contumacy, shall declare, that they,

they, and every of them, have incurred the first Default. Then the Proctor shall desire the Certificate of the said Warrant may be continued to the next Court, day, or other Day assigned by the Judge.

the Execution is to be certified as is laid before

28. *Of the Manner of attaching such Goods or Debts as lie in others Hands, and cannot be come at to be arrested by the Officer.*

Sometimes it happens that the Person you have lent Money to, or is indebted to you upon some Maritime Contract, cannot be met withal, so as to be arrested; or it may be, has no Goods that the Marshal can come at to arrest; but you know where, and in whose Possession your Debtor's Goods are, or at least some Person that owes your Debtor Money. In that Case, you may sue out a Warrant to the Effect of the Warrant specified in the Twenty-fourth Chapter; and the Officer may, by Virtue thereof, go to the Person who has the Goods or Debt belonging to your Debtor, and arrest the same, and cite the Debtor especially, and all others in general, as is before said in the Twenty-fourth Chapter. And it is to be observed, that such Goods, Debts, or Sums of Money, as belong to the said Defendant, whether they are in the said Persons Hands, or any others whatsoever, must be certified in such War-

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Warrant as gives the Officer Power to seize, where such Goods may be arrested by the Officers.

29. *Of the Certificate upon the said Warrant.*

THIS is to be certified in the same Manner as the former Warrant, and the Contumacy of the Persons cited in special and in general to be accused and proceeded against in the same Form expressed in the Twenty-sixth Chapter.

30. *Of the Manner of proceeding in the said Arrest, when the Person in whose Hands the Goods or Debts are arrested, appears.*

IF the Person upon whom the Warrant is served, has no such Goods or Debts, he is obliged to appear on the aforesaid Day, and alledge that he neither has or had by him, or in his Custody, any Goods or Debts belonging to N. at the Time of the Arrest, nor since, nor at present; and that it has not happened through any Fault or Contrivance of his, that they are not in his Possession. And if he makes Oath of the Truth of these Allegations, he is to be dismissed, and every Thing done by the Plaintiff is void; but with this Limitation, that if the Plaintiff, before such Oath is made, will take upon him to prove any of the aforesaid Goods or

Debts belonging to the Person indebted to him, are in the Possession of the Person arrested, he is to be admitted to make such Proof; which if he does, he ought to recover them by the Judge's definitive Sentence, together with Costs. And observe, that in this Case, the said Person who justified that the said Goods were not in his Possession, is to be compelled to answer the Plaintiff by a Proctor to be instituted in this Suit, and to find Securities to the Effects mention'd in Chap. 11. And on the other Hand, the Plaintiff is to find Securities, as is mentioned in Chap. 13. And a Libel is to be given, and the Proceedings to be in all Things the same as in an ordinary Maritime Cause for Debt. If the Plaintiff fails in his Proof, he is to be condemned in Charges. But in the Libel to be given in this Case by the Plaintiff, he is not obliged to alledge or prove the Debt of that Person which by the Warrant is pretended to be his Debtor, but it is sufficient for him, if he proves the Debts or Goods of his Debtor to be in the Hands of the said Person. Now this being proved, He is to be compelled to bring in, and judicially deposite such Debts or Goods in the Court; and then the Plaintiff is to recover them by Defaults, as before, upon Non-Appearance, or by a contradictory Judgment. If the Debtor appears himself, and denies that he is indebted to the Plaintiff; in that Case, if the

the Person so intervening, will give Security to the Effects aforesaid, the Goods under Arrest, or deposited in the Court, are to be delivered to him, and the Plaintiff must give Securities, as before, under the Title *Of granting the second and third Default*. In all the Cases before mention'd, of any Proceedings upon Goods or Debts arrested, if neither the Person to whom the Goods are pretended to belong, nor any other, appears to claim them, they are to be proceeded against for Contumacy, as is set forth in Chap. 27. *Of the judicial Exhibition, or Manner of bringing in the said Warrant, &c.* And, as on the first Day, they are to be pronounced contumacious; and in Penalty thereof, to be declared to have incur'd the second Default. The Certificate before brought in, is also to be continued to the next, or some other Court-day, at the Judge's Appointment; on which second Court-day, the Proceedings must in all things be the same as above, that is, they, and every of them are to be declared to have incurred the second Default, and the said Certificate is to be continued to the next Court-day, on which third Day they are to be accused, and the Judge is to be petitioned, that all the aforesaid Persons may be pronounced to have incur'd the Fourth Default.

11. *Of the Proctor's Petition and the Judge's Decree, after the contumacious Persons are pronounced to have incurred the Fourth Default.*

THE Plaintiff's Proctor ought moreover upon this Day to accuse the said Persons that have been cited specially and generally, and have not appear'd, being call'd upon, of Contumacy, and shall say, *I give an Article by Virtue of the First Decree, and I alledge and petition, and do every thing else as is contained in the said Decree, and desire this Article may be admitted, and that Right and Justice may be done, and that it be decreed my Client may be put in Possession of the Goods arrested by the first Decree.* Then the Judge shall cause Proclamation thrice to be made for the Persons cited in special and in general; and upon their Non-appearance shall pronounce them contumacious; and in Penalty thereof shall say, *We admit such an Article.* Then the Plaintiff or his Proctor to prove the Contents of that Article, that is to prove the Debt in question, ought to exhibit some Bond or other Instrument, by virtue of which he demands the Debt; and the principal Party ought to make his corporal Oath before the Judge of the Truth of the Debt; which being done, the Judge is wont to read over to himself the Article given in by the Proctor; and

and then say, *We pronounce and decree according to the Petition.* Then the Proctor shall give in a Schedule of the Expences; and the Judge shall tax the same upon the Oath either of the principal Party or his Proctor, that they have really been disbursed, and decree the Goods arrested to be appraised, according to their true Value, the Plaintiff also giving Security to answer any Person or Persons laying any claim to the Goods so recovered within the Term of the following Year, shall be put in Possession of the aforesaid Goods to the Value of his Demand; or if they are not sufficient, to answer the Whole, as far as they will go towards it.

32. *The Contents of the Article upon the First Decree.*

IN this Article the Plaintiff must set forth and declare the Fact, that is, when, and by what Contract the Debt arises; and in the Conclusion desire that Right and Justice may be done, and that he may be put in possession of the Goods arrested, as far as they will answer the payment of his demands. And he must also add, that he had no hopes of recovering the Debt, but by arresting the aforesaid Goods.

33. *Of the manner of Proceeding when the Person appears to whom the Goods arrested are said in the Warrant to belong.*

IT often happens that as a Man is arrested in a personal Action for a Debt which in truth he does not owe, so your Goods are sometimes attached for a supposed Debt. In this Case, as soon as ever you know your Goods are arrested, lest they should be recovered against you in the manner before mentioned, for Defaults, and your Adversary should by the first Decree in Penalty of your Contumacy, be put in Possession of them; 'tis proper you should appear, and upon your giving Security to answer the Suit commenced to all the Effects mentioned in Chap. 11. then the Goods are to be released and delivered to you, and the Plaintiff is obliged to give Security that he will libel and prove the Debt in question, and proceed in all things as in a personal Action against the Debtor. But if before you appear in Behalf of your Goods you should be pronounced contumacious, and the Judge hath declared you have incurred some Defaults; in the first place, and before all things, you must pay the Penalties of your Contumacy, before the Goods are delivered to you, or you can be heard in the Case.

34. *Of the Appearance of a Third Person to whom the Goods arrested belong, altho' they are arrested as belonging to another.*

IF your Goods are arrested as belonging to, or for the Debt of another, if you do not appear in Behalf of them before the first Decree is made, the whole Charge of the Suit, at the Time of making the said Decree is to be paid before you can be heard; but if you make your Appearance before the first Decree, then the Defaults aforesaid only are to be paid, as in the foregoing Chapter; which being paid, you must alledge and set forth your Interest in the said Goods, and give Security to abide in Judgment, pay the Charges if you fail of proving your Interest in them, and to confirm and allow of whatever your Proctor does in your Behalf. Whilst the Suit is depending, the Goods are to be kept under arrest, or sequestered, as in the 39th Chapter. If you make out your Interest in them, they are to be adjudged to you, and the Plaintiff condemn'd in Charges; if not, you are to pay the Costs to the Plaintiff.

35. *That*

35. *That the Plaintiff may obtain the first Decree, as well against the Person to whom he pretended the Goods arrested did belong, as against all others appearing whatsoever.*

ALTHO' a third Person should appear and pretend an Interest in the Goods arrested by you as belonging to another who is your Debtor, yet you may proceed and prosecute the said Arrest against the Debtor and all others, except the Person appearing, and proceed upon their Contumacy and obtain the first Decree, and a Decree for putting you in Possession of the aforesaid Goods, as far as they will satisfy your Demand, but you are not to be put in Possession of them as long as the Suit between you and the said Third Person is depending.

36. *Of the Third Person claiming an Interest after the first Decree.*

THE Person appearing and claiming an Interest after the first Decree is not to be heard before he has paid the Costs as they were taxed at the Time of making the said Decree, after which he may propose and alledge his Interest, giving Security to the Effects mentioned in the 34th Chapter. But as the Proctor's Office (whether he be for the Plaintiff or Defendant) ceases after

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ter the Definitive Sentence is pronounced, so it also does after the first Decree is made, and his Client put in Possession of the Goods. Yet this Point, says Mr. *Clerke*, has been very much disputed by the Learned for these thirty Years past.—Therefore, the Person intervening and claiming an Interest, must call upon the principal Party if alive, or upon his Securities bound to answer all Persons, as in the 31st Chapter, to shew Cause why he may not be admitted to propose his Interest in such Goods, newly belonging, by the first Decree, to such a one, or to see such his Interest is admitted. And if the Persons cited in this Case should not appear, a Warrant is to be granted to arrest them till they do appear; and upon their Appearance, the said Third Person intervening must make out his Interest, and the Proceedings are in all Things to be as is said before, in an ordinary Cause: And if he does prove his said Interest, he will recover, as before said, the Goods, if they are in Being, by the first Decree, or their true Value, according to the Appraisement made of them upon the first Decree, together with his Expences upon that Occasion; but if he fails to prove or make out his Interest, then he must pay the Charges of his Adversary.

37. *Of the Manner of arresting your own Goods, when detain'd, possess'd, or made use of by another.*

WHEREAS it often happens, especially in Time of War, that your Goods or Ship is taken by Enemies or Pyrates, and afterwards by Chance brought into this Kingdom; or if any Goods belonging to you are made use of, detained, or possess'd by another; or if your Agent, or Factor abroad has consign'd Goods for your Use and Account, but they are unjustly made use of, or detain'd by another; in these Cases you may obtain a Warrant to arrest such Goods, as your own proper Goods, with a Citation in the said Warrant against the Detainers and Possessors of them in special, and against any others pretending to any Right or Interest in them in general, to answer in a Civil and Maritime Cause; which Warrant being executed and returned in the Manner aforesaid, if no one appears, you must proceed in all Things as before, and after the Fourth Default, the Goods are to be adjudged to you, not as your proper Debt, as in the former Case; but in the Penalty of their Contumacy in not appearing, the Goods are to be pronounced to belong to you, and as your own proper Goods, you are to be put in Possession of them: But in this Case you must give cautionary
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Security, and the Goods are to be appraised as in the 31st Chapter.

38. *Of the Manner of Pleading a Possessory Right.*

IF your Goods are arrested as belonging to another Person, and either you yourself, or some other for you, or in your Name, are in Possession of the said Goods at the Time of the Arrest, you may go before the Judge and alledge as follows: *That such a-one appeared personally, and to all Intents of the Law, &c. and alledged that at the Time of the Arrest, he was in quiet and peaceable Possession of the Goods arrested, not by force, fear, secretly or precariously; and desired, that first and before all Things, the Possession of the said Goods may be decreed to him, and that he may be maintained in the said Possession, and that the Arrest laid upon them by the Authority of this Court may be taken off, and Right and Justice done.* If the Plaintiff justifies such Possession, he is to prove the same on a Day appointed for that Purpose. It is also convenient for you to protest that you do not design to proceed in *Petitorio*, but in *Possessorio* only. The Plaintiff also who caused the Goods to be arrested as his own, may alledge that he was and is in Possession of the said Goods, and reply, that the said N. was in Fact never in Possession of the said Goods arrested; but that he

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obtain'd the same by Force, Violence, or by a Trick. And if both Parties proceed upon the Possession of the Goods, he that proves the same, shall be put in Possession of them by a definitive Sentence; and afterwards either Party aggrieved by the definitive Sentence, may proceed in *Petitoria*.

39. Of the manner of proceeding in a *Petitory Suit*.

THE Person who is put in Possession of the aforesaid Goods by the Judge's Sentence, if his adversary will continue to dispute and proceed in *Petitoria*, and prove that the Goods belong to him, is obliged before he is put in real Possession of them, to give Security to answer the Plaintiff in *Petitoria*; that is, to restore the aforesaid Goods and not to embezzle them, to abide the Determination of the Court, to pay the Costs, and approve of and confirm what his Proctor does in his Behalf, in case the Plaintiff gets the better, and the Goods are, by the Judge's Decree, to be appraised according to their just Value, by skillful and honest Persons. And as the Plaintiff in this Case, so a Third Person intervening and obtaining Possession, may propose his Right and Interest in the said Goods, and proceed in *Petitoria*; and proving the same, shall have Sentence given for him with Charges. And the Proceedings in this *Petitory Suit*

Suit, are to be just the same as in other Maritime Causes. And take Notice, that before the Plaintiff can be admitted to propose his Interest in a Petitory Manner, he must give Security, that he will prosecute the Suit, abide the Determination of the Court, and approve of whatever his Proctor shall do in his Behalf.

40. *In what Case Goods are to be sequestred, or kept under Arrest.*

WHilst the Suit is depending, either in *Possessorio* or *Petitorio*, the Goods are to be sequestred, and not deliver'd to either of the contending Parties; but if the Goods be such as by keeping will be spoiled, or lose much of their Value before the Suit be ended, the Judge, upon the Petition of one of the Parties, altho' the other dissent, may, if it appears to him that the Goods will perish, or be less worth by keeping, decree such Goods as are likely to perish, to be appraised by honest and indifferent Persons, to be named by both Parties, and approved by the Judge, and the Value or Price of them to be deposited with the Judge or his Register, for the Use of the Person who is found to have a Right to them.

41. *What is to be done if several Persons arrest the same Goods for their respective Debts.*

IT sometimes happens, that one Person is indebted to many, whose Creditors take out several Warrants, and arrest his Goods for the recovery of their respective Debts, but the Goods are not sufficient to answer all; in this Case therefore, that Creditor is to be preferr'd, and will first obtain a Decree from the Judge for putting him in Possession, who first began the aforesaid Suit, or procur'd the Goods to be arrested. The same Order is to be observed as to the rest of the Creditors, and if any Goods remain after the Demand of the first Creditor is satisfied, they are to go to one, not amongst them all.

42. *Of the Oath of Calumny.*

THE Oath of Calumny is generally administred immediately after the Suit is contested or Issue joined, to either of the Parties, or both, as the Judge thinks fit, in this or the like Form, [Vide Clerke's Ecclesiastical Practice for the Oath of Calumny.] "You shall swear that you believe the Cause you move is just; that you will not deny any Thing you believe is Truth, when you are asked of it; that you will not (to your Knowledge) use any
" false

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“ false Proof; that you will not out of
 “ Fraud request any Delay, so as to pro-
 “ tract the Suit; that you have not gi-
 “ ven or promised any things, neither will
 “ give or promise any Thing in order to
 “ obtain the Victory, except to such Per-
 “ sons to whom the Laws do permit.

So help, &c.

43. Of propounding Matter of Defence
 and Exceptions, and corroborating of
 Witnesses. [See Consett, Part III.
 ch. 4. § 6.]

ALL these Matters are likewise
 fully treated of in the Practice of
 the Ecclesiastical Courts; but you must
 observe, that it is the ancient Custom
 or Style of the Court of Admiralty to
 admit of Exceptions in General, and
 for the Judge to appoint a certain com-
 petent Time as he thinks proper, for spe-
 cifying or particularizing such general
 Exceptions, and there is but one and
 the same Term of Time to be allow'd
 to prove those general as well as parti-
 cular Exceptions; that is, Exceptions
 in General being admitted, if a proba-
 tory Term be assigned to prove them;
 and after that Term is expired, special
 Exceptions are offered, another Term
 for proving them is not to be assigned;
 but the Witnesses are to be produced
 within the Time assigned to make Proof
 of these General Exceptions.

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44. Of

44. *Of the Suppletory Oath.*

THIS Oath may be prayed, and is wont to be decreed in all Maritime Causes. For the Form of alledging the Reasons for praying it, and the Time and Manner of praying it. Mr. *Clerke* refers to his *Practice in the Ecclesiastical Courts*.

45. *Of exhibiting or producing Instruments by way of Proof.*

FOR the Manner of exhibiting Instruments, what Allegations are necessary on that Occasion, the Answers to be made to them by Proctors or principal Parties, and the Form of declaring them, *pro confesso*; if they do not answer, or at least not fully, Mr. *Clerke* refers to the Ecclesiastical Practice, with this Difference, that if the Proctor, principal Party, or Witnesses, refuse to be sworn to make faithful Answer to the Articles of the Libel, or other Matter propounded, to which they are by Law bound to answer, the Judge may commit them to Prison for such Contempt, till they submit to be sworn, and compel them by Imprisonment to pay the Penalty of such Contempt.

46. *Of*

46. *Of comparing Letters.*

FOR the Manner and Form of exhibiting Instruments and offering Allegations to the End a Comparison may be made, and the Tenour of the Report of the Comparators, and exhibiting the same, and other Things requisite in that Behalf; Mr. *Clerke* likewise refers to the *Ecclesiastical Practice*.

47. *Of exhibiting Instruments in a Foreign Language, for Proof of the Libel or other Matters propounded.*

IF any Instrument or Writing making Proof of Matters propounded in your Behalf, or any Proxy be written in a Foreign Language, then the Proctor exhibiting the same shall say, *In Proof of the Contents of the Libel, or such Matters proposed on my Part, I exhibit a certain Instrument in such a Language, and will be sworn to produce a faithful Translation of the same.* Then the Judge shall swear some honest and skilful Person for that Purpose, and admonish him as is pray'd.

48. *Of*

48. *Of the Manner of exhibiting the translated Copy, with the Original, and the Proctor's Petition who exhibits it.*

THE said Original Instrument and translated Copy, being brought in and exhibited, by Virtue of the Oath of the said Person before sworn, the Proctor shall further alledge, *I exhibit the said Instrument, together with a Copy of the same, translated into English; and I alledge, that all and every the Contents of the said Instrument are true, and were acted and done as is therein contained, and that the Copy exhibited is a faithful Translation, and agrees with the Original.* This Allegation being admitted, he shall swear, that he hath faithfully put in his Allegation; and he may make Use of the Proctor's and principal Party's Answers. And the Adversary's Proctor is to be sworn to make Answer to the same against the next Court-day; and the Proctor's Answers being so made, the rest of the Proceedings are in all Points to be the same as in the 45th Chapter. This being done, the Proctor shall alledge, *I desire this translated Copy may be registered, and an Order when that is done, that the Original may be re-deliver'd, and as much Faith or Credit given to the Copy as to the Original.* Then the Judge shall decree as pray'd; but the Proctor

Proctor must take Care that the Original Instrument be lodged with the Register, that the adverse Party, or his Proctor, may inform themselves what, and how to answer.

49. *Of the Conclusion, and giving Informations to the Judge before Sentence is pronounced, and of the Manner of pronouncing the same.*

FOR all these, and other incident Matters, Mr. *Clerke* refers to the *Ecclesiastical Practice*.

50. *Of an Appeal from a Definitive Sentence.*

AN Appeal is allowed from any Definitive Sentence, or Interlocutory Decree, that has the Force of a Definitive Sentence; and it may be done either *viva voce*, in the Acts before the Judge at the Time the Sentence is pronounced, or such Decree interposed; or else before a Notary Publick and Witnesses, within the Ten Days that are allow'd to appeal in, by the Statutes of this Realm. Of the Manner and Form of interposing such Appeals. Mr. *Clerke* advises to read the *Ecclesiastical Practice*, But it is doubted whether an Appeal will lie against a Sentence pronounced in a Possessory Suit; because the Party aggrieved may be redress'd in a Petitory one,

one, either by the same Judge, or the Judge of the Appeal.

51. *That no Appeal lies from Grievances, or a Decree not having the Force of a Definitive Sentence.*

ALTHO' you should offer Matter conclusive of your Defence, or conclusive Exceptions against your Adversary's Witnesses, or pray a Commission for Examination of Witnesses within the Term, probatory, or the like, and the Judge refuses to admit all these; yet it was never customary to appeal from such Grievances, nor from any Interlocutory Decree that has not the Force of a Definitive Sentence; because all these may be redressed in an Appeal from the definitive Sentence, and then you may alledge and prove whatever you have not alledged and proved already.

52. *What is meant by an irreparable Grievance, and Decree having the Force of a Sentence, from which one may appeal.*

IF any one arrests your Goods either as belonging to himself or some other Person, and you thereupon resort to the Judge, in due Time, and alledge that you have an Interest in such Goods, and pray that you may be admitted to propound and prove the said Interest, and that

that Right and Justice may be done you? If in that Case the Judge rejects your Petition, either expressly or tacitly, by proceeding to Things contrary or prejudicial; as, suppose to the First, Second, and Third Default, in order to adjudge your Goods to another on the Fourth Day, and this is call'd an irreparable Grievance, and Interlocutory Decree, having the Force of a definitive Sentence: For you cannot hope for another Sentence upon this Matter from the same Judge; and in this Case, if you do not appear, you will lose your Goods. In like Manner, if your Creditor has commenced a Suit against you for Debt; and you, to put a Stop to the Process, alledge that a Suit for the same Debt is depending before some other competent Judge, or the like; if the Judge notwithstanding proceeds tacitly in the Cause by admitting a Libel, or expressly rejects your Allegations, then you may appeal; for these Things cannot be redress'd by an Appeal from the definitive Sentence; nor can you hope for any other Sentence upon them.

53. *Of lodging Appeals from and in the Court of Admiralty.*

AS Appeals will lie from the afore-said Definitive Sentences, and Interlocutory Decrees, having the Force of Sentences, of the Court of Admiralty to the King's Majesty and the Court of Chancery;

Chancery; so from all Sentences, Interlocutory Decrees and Grievances, of any inferior Judges, or Vice-Admirals wheresoever they will lie, to the Lord High Admiral and his High Court of Admiralty, and the Judge or President of the same, who may take Cognizance of such Causes of Appeals, and of any Complaints of Nullities whatsoever.

54. *Of Inhibitions upon the aforesaid Appeals.*

AN Appeal being lodged or interposed, (as the Civilians term it,) in the Cases aforesaid, an Inhibition is to be pray'd from the Judge to whom the Appeal is made, (*Vide Confet. Part V. § 1.*) and that Inhibition does not only inhibit the Judge, and particularly the Party apellate, from proceeding further in the Cause; but contains an Arrest of the Person apellate, in the same Manner as an Original Warrant in a Civil Cause; to take him into Custody till he appears to answer the Apellant in the Cause of the Appeal.

55. *Of the Execution and Certificate of the said Inhibition.*

THE Inhibition must be to the Judge, to the Party Apellate in particular, to the Register, and all others in general, as in Ecclesiastical Causes. But the Party Apellate must be arrested and

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and imprisoned, unless he gives sufficient Bail for his lawful Appearance, as in the Fourth Chapter; and the Inhibition is to be certified in the same Manner as an Original Warrant.

56. *Of giving Bail in a Cause of Appeal.*

IF the Plaintiff appeals in the first Instance, he is not to be admitted to libel, unless he gives Bail to the same Effects as he is obliged in an Original Civil Cause. If the Defendant appeals in the first Instance, he must give Bail to the same Effects as the Plaintiff did in the first Instance. And observe, that tho' the Plaintiff does appeal, he is obliged to give Bail to abide the Decree of the Court, pay Costs, and to confirm and allow whatsoever his Proctor does in his Behalf.

57. *Of the Manner of proceeding in Appeals.*

OF the Manner of proceeding in these Appeals, as to the offering of the Libel, the Decree for transmitting of the Process, the Decree for the Appearance of the Party principal, the Privilege of the Apellant, to alledge and prove such Things as before he had not alledged or proved, the Manner of justifying the Cause of Appeal from Grievances, and exhibiting the Process of

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the Judge from whom it is appealed, and the Instrument of Appeal, and other Judicial Proceedings in Causes of Appeals; read the *Ecclesiastical Practice*, with this Distinction, that the Ecclesiastical Judges make Use of the Spiritual Sword to punish Contempts and Contumacy, that is, Excommunication; and the Civil Judge, (*i. e.* of the Admiralty) of the Secular Arm, that is, Imprisonment, or pecuniary Punishments.

58. *Of the Petition for a Decree to shew Cause why the Sentence should not be put in Execution.*

IF the Party against whom the Sentence is pronounced, appeals at the Time of the Pronunciation, which is in the Acts of Court, and a Time is appointed him for prosecuting and certifying his Appeal, then, if within that Time no Inhibition is granted, the Proctor in whose Favour the Sentence pass'd, ought to pray the Adverse Party may be cited, to shew Cause why the Sentence should not be put in Execution, and the Costs taxed. This Decree contains only a Citation or Monition, and not an Arrest. But if there is no Appeal when the Sentence is pronounced, then, after the Fifteen Days allowed by the Statutes of the Kingdom to appeal in, the said Decree for shewing Cause why the Sentence should not be

put

put in Execution, is to be prayed, as before.

59. *Of the Form of putting the Sentence in Execution.*

IF the Person who has appealed, extrajudicially being cited to shew Cause why the Sentence should not be put in Execution, should alledge, that he has appealed in due Place and Time, then a Term is to be assigned him for prosecuting, and certifying or shewing that he has appealed; and that Term being expired, and no Inhibition served upon the Judge, the Sentence may be put in Execution in the Presence of the Proctor alledging the Appeal. The same is to be done if he who appealed at the Time the Sentence was pronounced, being cited to shew Cause why it should not be put in Execution, does by himself, or his Proctor alledge any Matter that is not conclusive. But if the Appellant, being cited, does not appear, then in Penalty of his Contumacy, after he has been accused thereof and proclaimed in Court, the Sentence is to be put in Execution, and the Proceedings, as to the Premises, are to be in all Things the same as in Ecclesiastical Causes.

60. *Of the Decree against the principal Party, to pay the Thing adjudged, and the Charges.*

After the Judge in Penalty of the Contumacy of the Party not appearing, and in Presence of his Proctor shewing no Cause to the contrary, shall have ordered the Sentence to be put in Execution, a Schedule of the Costs is to be exhibited and taxed, upon the Proctor's Oath, that they have been disbursed. Then the adverse Proctor shall say, *I desire the Party principal may be admonished to pay the Thing adjudged, as well as the Costs taxed, within some competent Time; otherwise, that he may be arrested and imprisoned, till he does pay.* Which Petition the Judge shall grant, appointing a certain Time for the Payment, as Twenty, Thirty, or Forty Days, according as the Judge pleases.

61. *Of the Decree or Monition.*

THE aforefaid Warrant or Monition being brought into Court, with a Certificate indorsed that the Defendant absconds, so that he cannot be admonished according to the Tenour thereof; let the Proctor pray and say as follows, *I alledge that N. the Party principal, has been sought after, to the Intent of admonishing him, according to the*

the Tenour of the Mandate or Warrant by me brought into Court; and that he has absconded, and does now abscond, so that he cannot be personally admonished. Wherefore, I pray a Decree for admonishing his Bail to pay the Thing adjudged, and Costs, within some competent Time, or otherwise, a Decree for their being taken into Custody till they do pay.

62. *Of the Decree against the Bail to pay the Thing adjudged, omitting the Party Principal.*

IF the Party principal who is cast, lives beyond Sea, or has no fixed Habitation within the Kingdom, so that he cannot be admonished to pay the Costs adjudged; the Judge, if he pleases, at least, if he is satisfied of the Premises, may, as soon as the Term allowed for certifying and prosecuting the Appeal is elapsed, decree the Bail to be cited to shew Cause why the Sentence should not be put in Execution, without taking Notice of the Party principal. In like Manner, after the Sentence is put in Execution, and the Costs taxed, the Judge may, if he pleases, for the Causes premised, decree a Monition against the Bail to pay the Thing adjudged, omitting, as is said before, to admonish the Party principal.

63. Of a peremptory Instance.

AS in the Case of an Appeal, if it be not prosecuted within the Term allow'd by the Law, or to be deserted within the Term allow'd by the Judge from whom the Appeal is made, altho' the Appellant had ever so much Right to appeal; so in a Civil Action, if after it is commenced, it be not ended, and Sentence pronounced within Three Years, the Instance drops. And Mr. Clerke says, as he has heard from the Skilful, no Reason or Cause can be objected or alledged to the contrary; but the Judge, without any Regard to the Justice of the Cause, ought to declare, that the Instance is dropt, and to discharge the Defendant from any farther Attendance, together with Costs.

INSTRUC-

INSTRUCTIONS

To be Observed by all the

OFFICERS and AGENTS

TO THE

COMPTROLLER and SOLICITOR

OF THE

Rights and Perquisites

OF THE

ADMIRALTY.

YOU are required, according to the Trust and Confidence reposed in you, diligently to apply yourself on all Occasions to Promote, Advance, and Preserve all the just Droits, Duties and Perquisites, belong to the Office of Lord-High-Admiral of *Great-Britain and Ireland*, &c. which may happen to come within the Ports and Places of your Agency,

Agency, and the Districts thereof. But for your more particular Directions, how, and in what Cases the Lord-High-Admiral's Rights do arise, you are desired to observe the following Rules:

I. All Ships, Vessels, and Goods, as either do, or may belong to any of His Majesty's Enemies, and shall come into any Port, Creek, or Road of *Great Britain* or *Ireland*, or of the Foreign Plantations by Stress of Weather, Mistake of Port, or by Ignorance, not knowing of a War, or other Accident; and all such Ships or Goods as are Taken, or Seized, in the aforesaid Places, or within Gun-Shot of any Castle or Fort, by any Ship or Vessel whatever; or by any the Inhabitants, or others His Majesty's Subjects: Also the Ships and Goods of all Enemies casually met at Sea, and seized by any Vessel not Commissioned, are Droits appertaining to the Office of Lord-High-Admiral.

II. The Ships, Vessels, and Goods of all such as are found Trading or Corresponding with any of His Majesty's Enemies by any Ship, Vessel, or Boat whatsoever, belonging to any of His Majesty's Subjects, are Perquisites of Admiralty; as likewise where any such Ships or Goods shall be Seized in Places where the Lord-High-Admiral has Jurisdiction, or are taken in Ports or Havens, or in the

the above-like Manner, as the Ships and Goods of His Majesty's Enemies.

III. Where any Captain of a Privateer, or a Letter of Marque Ship, shall change his Ship, and act therein as Captain, without taking out a new Commission, and therein take any Prize, such Prize will become entire Perquisites of Admiralty; as also when any Person shall act as Captain, other than the Person who is in the Commission named as such.

IV. In all which Cases you are to take Possession of such Ships and Vessels, Sealing down the Hatches, and placing sufficient Waiters or Board, for preventing Embezzlements; and as soon as you have secured the same, you are to proceed to the Examination of Witnesses; which Examination you are to send under Cover to the Register of the High-Court of Admiralty in *Dublin*, and signify the same to us by Letter, and thereupon you will pursue such farther Directions as you shall receive for the Disposal thereof; and in Case such Ship, Prize, or Goods, by Leakiness, or any other Defect of the Vessel, or by the Nature and Condition of the Goods, shall be perishing, you are to procure sufficient Affidavits thereof, and transmit the same; and in case of actual Perishableness, you are to proceed to Inventory and Appraisement, upon the Oaths

Oaths of four or five fit Persons, such as you shall Chuse and Elect for that Purpose; and after such Appraisement made, proceed to sell the same at publick Sale to the highest Bidder, and remit the Produce without waiting any particular Commission for that Purpose.

V. Of all such Ships and Goods as may be condemned as Rights of Admiralty; you are to Note the Burthen of them, the Quantities and Qualities of the Goods, together with the Tackle, Apparel, and Furniture of each Ship, with as much Exactness as possible. And to the End that all Sales may be the better managed for his His Majesty's Advantage, you are to inform yourself of the usual Rates and Prices of any such-like Sort of Goods as you shall find condemn'd as Perquisites of Admiralty. You are likewise to take Care that there be no more expended on Waiters, Appraisers, Sellers, Interpreters, Attenders, and Others, on such Occasions, than is necessary for carrying on the Service to the best Advantage.

VI. In case any Commission of Restitution, or such Orders and Decrees as have been formerly directed by the Judge of the Admiralty, to the principal Commissioners of Prizes, or Others, about Rights and Perquisites of Admiralty, be directed to you as our Deputy, or that
Commissions

Commissions for the Examination of Witnesses, or of Appraisements, and for the Sale of Ships and Goods, be issued out of the Court of Admiralty, and are directed to you; you are to take especial Care, that the same be duly put in Execution, as well as all other Orders and Decrees of that Court, concerning the Perquisites of Admiralty.

VII. When any of His Majesty's Ships, Vessels, or any other Ships, or Vessels, with Commissions, or without, shall Seize or Take any Ship, Vessel, or Goods, belonging to His Majesty's Enemies, within any Road, Haven, Port, River, or Creek, or within Gun-shot of any Port, Castle, or Fort, such Prize, Ship, Vessel, or Goods, so Taken, are entire Rights of Admiralty, as Droits appertaining to the Office of Lord-High-Admiral.

As the afore-mentioned Rights of Admiralty do principally arise in Time of War, so the above Articles are then chiefly to be regarded; yet in many Cases it is necessary they should be observed and applied as Occasion offers, to such as arise in Time of Peace. For besides the forgoing Rights of Admiralty, there are several other Matters which are adjudged to belong to the Office of Lord-High-Admiral, viz.

VIII. The

VIII. The Goods and Effects of all Traytors, Pyrates, Homicides, and Felons, and all other Delinquents whatever, within the Jurisdiction of Admiralty, and of all and singular their Abettors or Accessaries, belonging to the Lord-High-Admiral. Also the Goods of all Persons whatsoever that are *Felo de se* within the Admiralty Jurisdiction, by what Way or Manner soever they come to their Deaths, whensoever such Goods, or any Parcel of them are found forfeited, and are remaining on the Sea, Water, or Land, within any Liberties, or without.

The Goods also of all Fugitives, Persons Convicted, Attainted, Condemned, Outlawed; or against whom Writs of Exigents are issued for any Crime or Offence committed within the aforesaid Jurisdiction of Admiralty.

IX. Likewise all Manner of Fines, Forfeitures, or Amercements whatsoever forfeited, and pecuniary Penalties laid and inflicted, or awarded for Transgressions, Crimes, Injuries, Extortions, Contempts, or other Misdemeanours, of any Kind, or for any other Thing, Matter, or Cause whatsoever, in any Court of Admiralty, in any Manner Assessed before the High-Admiral, his Lieutenant, Vice-Admirals, Deputy, or Deputies, for all Treasons, Felonies, Robberies, Murthers, Manslaughters, Transgressions,

jurisdiction of Admiralty; and all and singular other Casualties whatsoever, as well upon, or by the Sea-Side, Creeks, Coast or Shores, as in, upon, or by fresh Waters, Ports, public Rivers, and Rivulets whatever, overflown, or within the Flux or Reflux of the Sea, or the Water at High Tide, or upon the Shores and Banks of any of them, from the first Bridges to Seawards.

But for the more easy and better understanding the Meaning of the last-mentioned Droits of Admiralty, you will take Notice of the following Explanations.

By *Wrecks of the Sea*, is understood such Goods as after Shipwreck, or other Accident, are cast upon the Land by the Sea, and there left; but if any Person or living Creature escape and come to Shore, the Goods are to be returned to the Owner, after all Charges paid, if he claims them within the Year and a Day, as a convenient Time allow'd in such Case by Law for that Purpose.

Flotsons are Goods which from many Accidents are found floating or swimming on the Top of the Water.

Jetsons are Goods cast into the Sea, or Overboard, in Time of Danger, and afterwards may be found lying on the Shoar.

Lagons are such Parcels of Goods, as by occasion of Shipwreck are sunk in the Sea, or found under Water, and to which

which sometimes may be fasten'd a Buoy or Cork, in order to their being found again.

Treasure Trove, or Treasure found, is such which lies hid in the Earth, or near the Sea, and which has no true Owner, and is generally suppos'd to be Gold or Silver, Coral, Pearl, and Amber, or other valuable Commodities.

A *Deodand* is that which causes or occasions the untimely Death of any Man by Mischance, without the Fault of himself or other Person; which Thing, and every Thing moving with it, is forfeited, in case such Person dies within the Year and a Day after such Misadventure.

A *Felo de se* is properly when a Person commits Homicide against his own Life; yet in such Case there is no Forfeiture of Goods and Chattles unless the Person who commits this sort of Felony be of the Age of Discretion, and *Compos Mentis*.

A *Derelict* is the utter forsaking or leaving any Goods whatever.

XIII. You are to inform yourself of, and demand all Sea-Weeds, or Tangles, Eure or Ore; and also all Mines holding Metal, Minerals; and all Flats and Stones, Sand and Gravel, used for Ballasting of Ships, found, raised, gotten, or taken upon the Sea Shore, or in Rivers between the High and Low Water-Mark, as Duties and Perquisites which

of Right belong to the Office of Lord-High-Admiral.

XIV. You are from Time to Time, as you shall find occasion, to remind the Vice-Admiral of the maritime County in which you reside, to account in the manner required by his Patent for all such Droits, Duties, and Perquisites, as he has received; and to acquaint us with any Abuses or Encroachments whatever, that you find are committed by him or his Officers, in the Taking, Collecting, Seizing, Embezzling, Disposing, or Medling with any Ships, Vessels, Goods and Merchandize, or any Admiralty Droits.

You are likewise to get Information of all Ships, Goods, and other Droits of Admiralty whatever, as have not been duly accounted for, or are remaining in the Hands of any Persons by whom they are payable; and in Case you shall find any Abuses or Encroachments committed by any Persons whatever, to the Prejudice of the Rights of the Lord-High-Admiral, you are to take the most effectual Course to rectify the same.

XV. And whereas all Ferries on navigable Rivers, and Arms of the Sea, are of Right belonging to the Lord-High-Admiral, and have been heretofore accounted for accordingly: You are therefore to make the best Enquiry of all

all such as may be within the Places of your Agency, and of the Persons who are in Possession thereof, or pretend to such a Right in themselves: And as well what are the Benefits and Advantages arising thereby, as by what Authority they enjoy the same: And having received Information of the foregoing Particulars, you are to signify such Account to us for our further Proceedings therein.

XVI. As for what reasonable Expence you shall Disburse, in Relation to the Matters aforesaid which shall be condemn'd as entire Perquisites of Admiralty, on transmitting due Accounts, with proper Vouchers to the several *Items* therein, and where Vouchers cannot be obtain'd, Affidavits to supply the same, thereupon such your Accounts will be paid, together with an Allowance for your Care and Pains, at the Rate of Five *per Cent.* according to the Gross Sale thereof.

For the more effectual Receipt of all the Droits, Profits, and Duties above-mentioned, you are to employ your utmost Diligence, Care and Industry, in obtaining the same, and particularly observe, as they happen from Time to Time within your Knowledge, or shall come to your Custody, not only to give due Accounts thereof, in Order to receive further Instructions relating to them, but upon all such Occasions im-

mediately transmit us Affidavit thereof, made before the Magistrate of a Corporation-Town, or a Master in Chancery extraordinary, containing the several Particulars of when, where, and by whom such Droits were taken up, and in what Manner they were found, in order for our Proceedings in relation thereunto. And for your better Enquiry, and more certain Information in the foregoing several Particulars, you may hold Correspondence, as Occasions require, with some fit Person at such Place as you shall find requisite, that upon all Opportunities we may be particularly inform'd of such Rights of Admiralty, as may arise within the Limits of your Deputation.

And for your more regular Proceeding in holding Correspondence with us, you are to take Notice, that on all Occasions you transmit all Papers and Accounts relating to these Affairs, to the Comptroller and Solicitor of the Rights and Perquisites of the ADMIRALTY.

Anno

Anno vicefimo nono

Georgii II. Regis.

An Act for the Encouragement of Seamen, and the more speedy and effectual Manning His Majesty's Navy.

WHEREAS the unwarrantable Preamble.
 Hostilities begun by the *French*,
 have necessarily engaged his
 Majesty in actual War with the *French*
 King in Defence of his Subjects, and
 the Rights and Possessions of his Crown:
 And whereas his Majesty has been pleased to notify the same by Proclamation, and a publick Declaration thereof, on the Seventeenth Day of *May*, in the Year of our Lord One Thousand Seven Hundred and Fifty-six: Now, for the better carrying on the said War with Vigour, and for the Encouragement of the Officers and Seamen of his Majesty's Ships of War, and the Officers and
 Seamen

Seamen of all other *British* Ships and Vessels, having Commissions and Letters of Marque, and for inducing all *British* Seamen, who may be in any Foreign Service, to return into this Kingdom, and become serviceable to his Majesty; and for the more effectual securing and extending the Trade of his Majesty's Subjects; be it enacted by the King's most excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That the Flag Officers, Commanders, and other Officers, Seamen, Marines, and Soldiers, on Board every Ship and Vessel of War in his Majesty's Pay, shall have the King's the sole Interest and Property of and in Ships to all and every Ship, Vessel, Goods, and Merchandizes, which they shall take, from and after the Seventeenth Day of May, in the Year of our Lord One thousand seven hundred and fifty-six, during the Continuance of this War against *France* (being first adjudged lawful Prize in any of his Majesty's Courts of Admiralty in *Great Britain*, or in his Majesty's Plantations in *America*, or *elsewhere*) to be divided in such Proportions, and after such Manner, as his Majesty shall think fit to order and direct by Proclamation or Proclamations hereafter to be issued for those Purposes.

Prizes made by the King's Ships to be divided between the Captains.

in the Proportions His Majesty shall order by Proclamation.

And

And be it further enacted by the Authority aforesaid, That the Lord High Admiral of *Great Britain*, or the Commissioners for executing the Office of Lord High Admiral of *Great-Britain* for the Time being, or any Three or more of them, or any Person or Persons by him or them impowered and appointed, shall, at the Request of any Owner or Owners of any Ship or Vessel, giving such Bail and Security as have been usually taken upon granting Commissions, or Letters of Marque (except only for the Payment of the Tenths of the Value of Prizes which shall be taken, to the Lord High Admiral, or Commissioners for executing the Office of Lord High Admiral for the Time being) cause to be issued forth in the usual Manner, one or more Commission or Commissions to any Person or Persons, whom such Owner or Owners shall nominate to be Commander, or, in case of Death, successively, Commanders of such Ship or Vessel, for the attacking, surprizing, seizing, and taking, by and with such Ship or Vessel, or with the Crew thereof, any Place or Fortrefs upon the Land, or any Ship or Vessel, Goods, Ammunition, Arms, Stores of War, or Merchandize, belonging to, or possessed by, any of his Majesty's Enemies, in any Sea, Creek, Haven, or River; and that such Ship or Ships, Vessel or Vessels, Arms, Ammunition, Stores of War, Goods and Merchandizes whatsoever,

Admiralty
to issue
Commissions to
Privates, they
giving the
usual Security.

Prizes
made by
them to
be solely
divided,
according
to private
Contract,
between
Owners
and Cap-
tors.

sover, with all their Furniture, Tackle, or Apparel, so to be taken by or with such private Owner or Owners, Ship or Vessel, according to such Commission and Commissions (being first adjudged lawful Prize in any of his Majesty's Courts of *Admiralty as aforesaid*) shall wholly and entirely belong to and be divided between and among the Owner and Owners of such Ship or Vessel, and the several Persons which shall be on Board the same, and be aiding and assisting to the taking thereof, in such Shares and Proportions as shall be agreed on with the Owner or Owners of such Ship or Vessel as shall be the Captor thereof, their Agents or Factors, as the proper Goods and Chattels of such Owner or Owners, and the Persons that shall be thus entitled thereto, by virtue of such Agreements among themselves; and that neither his Majesty, his Heirs or Successors, or any Admiral, Vice-Admiral, Governor, or other Person, commissioned by or claiming under his Majesty, his Heirs or Successors, or any Person or Persons whatsoever, other than the Owner or Owners of such Ship or Vessel, being the Captor of such Prize, Ship, or Vessel, Arms, Ammunition, Stores of War, Goods and Merchandizes, and the Persons claiming under him or them, shall be entitled to any Part or Share thereof (except as to the Customs and Duties hereafter mentioned)

any

any Custom, Statute, or other Law to the contrary notwithstanding.

And, for the more speedy proceeding to Condemnation, or other Determination, of any Prize, Ship, or Vessel, Goods, or Merchandizes, already taken, or hereafter to be taken as aforesaid, and for lessening of the Expences that have been usual in the like Cases, be it further enacted by the Authority aforesaid, Judge to That the Judge or Judges of *such Court* finish the of Admiralty, or other Person or Persons preparatory thereto authorised, shall, within the tory Examination, Space of five Days after Request to him mination, or them for that Purpose made, finish with Re- the usual preparatory Examination of spect to the Persons commonly examined in such the Cap- Cases, in order to prove the Capture to tures with- in 5 Days. be lawful Prize, or to enquire whether the same be lawful Prize or not; and Monition that the proper Monition usual in such to be issu- Cases, shall be issued by *the Person or ed and ex- Persons proper to issue the same*, and ecuted shall be executed in the usual Manner within 3 by the Person or Persons proper to ex- Days af- ecute the same, within the Space of three ter. Days after Request in that Behalf made; and in case no Claim of such Capture, If no Ship, Vessel, or Goods, shall be duly Claim entered or made in the usual Form, and thereupon attested upon Oath, giving twenty Days be made Notice after the Execution of such Mo- within a tion; or if there be such Claim, and limited Time the Claimant or Claimants shall not or Securi- within five Days give sufficient Security ty given (to be approved of by such Court of Ad- by the miralty) Claimant.

miralty) or pay double Costs to the Captor or Captors of such Ship, Vessel, or Goods, in case the same so claimed shall be adjudged lawful Prize; that then, the Judge or Judges of such Court of Admiralty shall, upon producing to him or them the said Examinations, or Copies thereof, and upon producing to him or them, upon Oath, all Papers and Writings which shall have been found, taken in or with such Capture; or upon Oath made that no such Papers or Writings were found; immediately, and the Judge without further Delay, proceed to Sentence, either to discharge and acquit forthwith such Capture, or to adjudge and condemn the same as lawful Prize, according as the Case shall appear to him or them, upon Perusal of such Preparatory Examinations, and also of the other last-mentioned Papers and Writings found, taken in or with such Capture, if any such Papers or Writings shall be found; and in case such Claim shall be

If Claim be entered, and Security given, and Witnesses be near, Examination and Determination to be had and made

duly entered or made, and Security given thereupon, according to the Tenor and true Meaning of this Act, and there shall appear no Occasion to examine any Witnesses, other than what shall be then near to such Court of Admiralty, that then, such Judge or Judges shall forthwith cause such Witnesses to be examined within the Space of ten Days after such Claim made, and Security given, and proceed to such Sentence, as aforesaid,

said, touching such Capture; but in within 10
case upon making or entering such Days.

Claim, and the Allegation and Oath
thereupon, or the producing such Pa-
pers or Writings as shall have been
found or taken in or with such Cap-
ture; or upon the said preparatory Ex-
aminations, it shall appear doubtful to
the Judge or Judges of such Court of
Admiralty, whether such Capture be
lawful Prize or not, and it shall appear
necessary, according to the Circumstan-
ces of the Case, for the clearing and
determining such Doubt, to have an
Examination, upon Pleadings given in
by the Parties, and admitted by the
Judge, of Witnesses that are remote
from such Court of Admiralty, and such
Examination shall be desired, and that it
be still insisted on, on Behalf of the
Captors, that the said Capture is lawful
Prize, and that the contrary be still per-
sisted in on the Claimants Behalf, that
then the said Judge or Judges shall forth-
with cause such Capture to be appraised
by Persons to be named by the Parties,
and appointed by the Court, and sworn
truly to appraise the same according to
the best of their Skill and Knowledge;
for which Purpose, the said Judge or
Judges shall cause the Goods found on
Board, to be unladen, and an Inventory
thereof being first taken by the Marshal
of the Admiralty, or his Deputy, shall
cause them to be put into proper Ware-
houses, with separate Locks of the Col-
lector

If the Le-
gality of
the Cap-
ture shall
appear
doubtful,
and the
Parties
persist in
litigating
their
Right.

Judge to
order the
Capture
to be ap-
praised.

and the
Goods to
be un-
loaded
and lodg-
ed in
Ware-
houses,

and an Inventory taken thereof,

and upon Security for full Value taken of the Claimant,

and for Costs of the Captors,

to make Order for release of the Capture to Claimant.

Claimant refusing, and Captor giving such Security.

lector and Comptroller of the Customs; and where there is no Comptroller, of the Naval Officer; and the Agents or Persons employed by the Captors or Claimants, at the Charge of the Party or Parties desiring the same; and shall, after such Appraisement made, and within the Space of Fourteen Days after the making of such Claim, proceed to take good and sufficient Security from the Claimants, to pay the Captors the full Value thereof, according to such Appraisement, in case the same shall be adjudged lawful Prize; and shall also proceed to take good and sufficient Security from the Captors, to pay such Costs as the Court shall think proper, in case such Ship shall not be condemned as lawful Prize; and after such Securities duly given, the said Judge or Judges shall make an interlocutory Order for releasing or delivering the same to such Claimant or Claimants, or his or their Agents, and the same shall be actually released or delivered accordingly.

And it is hereby further enacted by the Authority aforesaid, That if any Claimant or Claimants shall refuse to give such Security, the Judge or Judges shall cause the Captor or Captors in like Manner, to give good and sufficient Security, to be approved of by the Claimant or Claimants, to pay the said Claimant or Claimants the full Value thereof, according to the Appraisement, in case any such Capture or Captures shall

shall be adjudged not to be lawful Prize; Judge to and the said Judge or Judges shall there-make Order upon proceed to make an interlocutory Order for the releasing and delivering Delivery the same to the said Captor or Captors, of Prize or their Agents. to Captor.

And it is further enacted by the Au- Captures
thority aforesaid, That all such Captures made in
as aforesaid, which shall be brought into *America*,
any of his Majesty's Colonies or Planta- to be un-
tions in *America*, shall, without breaking der the
Bulk, stay there, and be under the joint joint Care
Care and Custody of the Collector and of the Of-
Comptroller of the Customs, or where ficers of
there is no Comptroller, of the Naval the Cus-
Officers of the Port or Place where the toms and
same shall be brought, and of all the Cap- Captors,
tors thereof, and their Agents: subject till con-
to the Directions of the Court of Ad- or ac-
miralty, until either the same shall, quitted
by final Sentence have been either there.
cleared and discharged, or adjudged and
condemned as lawful Prize; or that
such interlocutory Order as aforesaid,
shall have been made for the releasing
or delivering of the same; and upon
the Condemnation or Adjudication there- Upon
of as lawful Prize, shall, in case the Condem-
same were taken by any such private nation,
Ship or Ships, commissioned as aforesaid, Prize to
be immediately delivered unto the Cap- be delive-
tors thereof, and their Agents, to be by red to the
them disposed of as their Goods and Captors.
Chattles; and in case the same were
taken by any of his Majesty's Ships of
War, unto such Person or Persons, and

to be so divided and disposed of as his Majesty, his Heirs, and Successors, shall, by Proclamation or Proclamations hereafter to be issued for those Purposes, order and direct.

Judge, or
other Of-
ficer, in
America,
guilty of
Neglect
or Delay
in execut-
ing his
Duty,

forfeits
500 l.

with Full
Costs of
Suit.

And be it further enacted by the Authority aforesaid, That if any Judge or Judges, or other Officer or Officers, in any of his Majesty's Plantations or Dominions abroad, to whom respectively it shall appertain, shall delay the doing, performing, making, or pronouncing any of the several Proceedings, Matters, or Things, for, towards, or relating to condemning or discharging, releasing or delivering of any such Capture in Manner aforesaid, within the respective Times herein before limited, or as soon as the same, or any of them, ought to be done, according to the Tenor and true Meaning of this Act, all and every such Judge and Judges, and other Officer and Officers, shall, for every such Offence, forfeit the Sum of Five hundred Pounds; one Moiety thereof to his Majesty, his Heirs, and Successors, the other Moiety thereof, with full Costs of Suit, to such Person or Persons who shall inform, or sue for the same, in any of the Courts in or for any of his Majesty's said Colonies or Plantations, or in any of his Majesty's Courts of Record within his Kingdom of *Great Britain*.

And it is hereby further enacted by the Authority aforesaid, That there shall

not

not be paid unto or among all the Judges Fees of
 and Officers of such Court of Admiral- Court on
 ty in any of his Majesty's Plantations or Condem-
 Dominions abroad, for, towards, or nation of
 relating to the adjudging or condemning Prizes in
 of such Capture as aforesaid, as lawful America ;
 Prize, above the Sum of Ten Pounds, for Vessels
 in case such Prize, Ship, or Vessel, be under
 under the Burthen of One hundred 100 Tons,
 Tons ; nor above the Sum of Fifteen 150
 Pounds, in case the same be of that or for all
 any greater Burthen ; and that upon above,
 Payment of either of the said respective 150
 Sums, as the Case shall require, to the
 said Judge or Judges, or any of them, Upon
 to be by him or them disposed or divided, Payment
 as he or they shall think fit, among the of the
 Officers of such Court, such Judges and Fees,
 Officers, and every of them, shall be Judge,
 liable to all and every the several Pe- or Officer,
 nalties hereby imposed, for neglecting liable to
 or delaying to do and perform their se- the above
 veral and respective Duties or Offices in Penalties
 and relating to the several Proceedings for Ne-
 aforesaid, within the respective Times glect or
 herein for that Purpose limited. Delay of
 Duty.

Provided nevertheless, and it is here- Judgment
 by further enacted by the Authority of the
 aforesaid, That if any Captor or Cap- Court
 tors, Claimant or Claimants, shall not may be
 rest satisfied with the Sentence given in appealed
 such Court of Admiralty in any of his from.
 Majesty's Plantations or Dominions
 abroad, it shall and may be lawful for
 the Party or Parties thereby aggrieved to
 appeal from the said Court of Admiralty,

Appeal
to be
made
within 14
Days af-
ter Sen-
tence, and
Security
to be gi-
ven to
prosecute
the same,
&c.

Execution
of Sen-
tence not
to be sus-
pended
thereup-
on, if the
Appellate
give Secu-
rity for
Vessel,
&c. or
Value,
&c.

Person,
who was

to the Commissioners appointed, or to be appointed, under the Great Seal of Great Britain, for receiving, hearing, and determining Appeals in Causes of Prizes; such Appeal to be allowed in the like Manner as Appeals to such Commissioners are now allowed from the Court of Admiralty within this Kingdom; so as the same be made within fourteen Days after Sentence, and good Security be likewise given by the Appellant or Appellants, that he or they will effectually prosecute such Appeal, and answer the Condemnation, and also pay treble Costs, as shall be awarded, in case the Sentence of such Court of Admiralty be affirmed; any Thing in this Act before contained to the contrary hereof in any wise notwithstanding.

Provided always, that the Execution of any Sentence so appealed from as afore-
said, shall not be suspended by reason of such Appeal, in case the Party or Parties Appellate shall give sufficient Security, to be approved of by the Court in which such Sentence shall be given, to restore the Ship, Vessel, Goods, or Effects, concerning which such Sentence shall be pronounced, or the full Value thereof, to the Appellant or Appellants, in case the Sentence so appealed from shall be reversed.

And be it enacted, That in case any Person, who was not a Party in the first Instance of the Cause, shall interpose an Appeal

Appeal from a Sentence given in any not a Par-
Admiralty Court, such Person, or his ty in the
or her Agent, shall, at the same Time, first In-
enter his or her Claim, otherwise such stance,
Appeal shall be null and void. interpo-
sing an

And be it further enacted by the Au- Appeal, is
thority aforesaid, That if any Com- to enter
mander or Commanders, Officer or Of- his Claim
ficers, Seamen, Mariners, Soldiers, or at the
others, shall break Bulk on Board, or same
imbezil any of the Money, Jewels, Time.
Plate, Goods, Merchandize, Tackle,

Furniture, or Apparel of or belonging Captors
to such Prize or Prizes so taken, such breaking
Commander, Officer, Seaman, Marine, Bulk, or
Soldier, or others, shall forfeit treble imbezil-
the Value of all such Money, Jewels, ing any of
Plate, Goods, Merchandize, Tackle, the Ef-
Furniture, or Apparel, as he or they ffects, to
shall imbezil; one third Part thereof to forfeit
be to the Use of *Greenwich Hospital*, Treble
and the other two third Parts thereof to Value.

him or them that will sue for the same, One
by Action of Debt, Plaint, or Infor- Third to
mation, in any Court of Record in *Greenwich*
Great-Britain; in which no Effoin, *Hospital*,
Protection, or Wager of Law, or more and the
than one Imparance, shall be allowed. other Two
to the Pro-
secutor.

And be it further enacted by the Au- Appraise-
thority aforesaid, That all Appraise- ments and
ments and Sales of any Ship or Ships, Sales of
Goods, Wares, or Merchandizes, as Prizes,
shall be taken by any of His Majesty's taken
Ships of War, shall be made by Agents by the
or Persons nominated and appointed in Flag King's
equal Numbers by the Flag Officers, or

Ships, to be made by the Agents for the respective Officers and Crews concerned in the Capture.

Regulations concerning the Appointment and Number of Agents.

Flag Officer, Captains or Captain, Officers or Officer, Ships Companies, or Ship's Company, and others, entitled thereunto (that is to say) That if the Flag Officers or Flag Officer of any Fleet or Squadron of Ships, as shall take any such Prize or Prizes (or the Majority of such Flag Officers, if more than one) shall nominate and appoint one or more Person or Persons Agent or Agents, to sell or appraise the same as aforesaid, then the Captains and Commanders, or Captain and Commander, intitled thereunto, or the Majority of them (if more than one) shall nominate and appoint the like Number of Persons or Agents, to act for them; and all the other Officers, under the Degree of a Captain and Commander, entitled thereto, or the major Part of them, shall also nominate and appoint the like Number of Persons or Agents to act for them; and all the Crews of the several Ship's Companies of the Fleet or Squadron, or Ship's Company, and others, entitled thereto, or the major Part of them, shall likewise nominate and appoint the same Number of Persons or Agents to act on their Behalf in such Appraisement or Sale.

The above Clause not to extend to Privateers.

Provided, That nothing herein contained, shall extend, or be construed to alter, or make void any Agreement or Agreements made, or to be made, in Writing, between the Owners, Officers,

vers, and Seamen, of any private Ships or Vessels of War.

And be it further enacted by the Authority afore said, That all and every Person or Persons who shall be so nominated and appointed Agent or Agents as afore said, for any Prize or Prizes taken by any Ship or Ships, Vessel or Vessels of War, or by any Merchant Ship or Ships employed in his Majesty's Service, or having Letters of Marque, or for receiving the Bounty herein after granted, and which Prize or Prizes shall be condemned in the High Court of Admiralty in *Great Britain*, or in any of the Courts of Admiralty in any of his Majesty's Plantations in *America*, or in any other his Majesty's Dominions, or elsewhere, where the said Prize and Prizes, and every of them, shall be condemned, shall exhibit, and cause to be registered in the said High Court of Admiralty in *Great Britain*, or in the respective Courts of Admiralty in *America*, or in any other his Majesty's Dominions, or elsewhere, where the said Prize and Prizes, and every of them, shall be condemned, his or their respective Letter or Letters of Attorney, appointing him or them Agent or Agents for the Purposes afore said; and if any Person or Persons, so appointed Agent or Agents as afore said, shall refuse or neglect so to do for the Space of Six Calendar Months next after Sentence of Condemnation of any Prize shall be given

Agents to exhibit and register, within a limited Time, their Letters of Attorney, in the Court where the Prize shall be condemned, on Penalty of 500*l*.

given in the said High Court of Admiralty in *Great Britain*, or in *America*, or other his Majesty's Dominions, for the Care and Distribution of which he or they shall be appointed Agent or Agents, such Person or Persons, so refusing or neglecting, shall forfeit the Sum of Five Hundred Pounds, to be recovered by him or them who shall sue for the same, by Action of Debt, Bill, Plaint, or Information, in any Court of Record in *Great Britain*, *America*, or in any other of his Majesty's Dominions, or elsewhere; in which no Essoin, Protection, or Wager of Law, or more than One Impar lance, shall be allowed.

Agents appointed after Condemnation of Prize, to register his Letters of Attorney in like Manner, and on like Penalty.

Provided always, That if any Agent or Agents shall be appointed after the Time any Sentence of Condemnation in any of the said Courts of Admiralty shall be given, such Agent or Agents shall, under the aforesaid Penalty, register, or cause to be registered, in Manner aforesaid, his or their respective Letters or Letter of Attorney, appointing him or them Agent or Agents as aforesaid, within the Space of Six Calendar Months after the Date of the said Letter or Letters of Attorney.

Agents to give Notice of the Time appointed for Payment of the Shares

And be it further enacted by the Authority aforesaid, That after the Sale or Sales of such Prize or Prizes, as shall be taken from the Enemy by any of his Majesty's Ships of War, publick Notification shall be given by the Persons or Agents appointed as aforesaid, of the
Day

Day appointed for the Payment of the to the
 several Shares to the Captors aforefaid ; Captors.
 after which publick Notification, if any
 Men's Shares shall remain in the Hands Shares of
 of the Persons or Agents appointed as Run Men,
 aforefaid, either belonging to such Men and of
 as shall run from his Majesty's Ser- such as
 vice, or which shall not be legally de- shall not
 manded within three Years, then such be de-
 Share or Shares so remaining in the Per- manded
 sons or Agents Hands, or belonging to within 3
 such Men as shall run from his Ma- Years, to
 jesty's Service, shall go and be paid to be paid to
 the Use of *Greenwich Hospital*. *Greenwich*
Hospital.

Provided always, and be it declared Prize
 and enacted by the Authority aforefaid, Goods
 That nothing herein contained shall ex- not ex-
 tend, or be construed to extend to ex- empted
 empt any Ships, Goods, Wares, or from Pay-
 Merchandize already taken, and which ment of
 shall be taken as Prize, and brought or Customs
 imported into this Kingdom, or any of and Du-
 his Majesty's Plantations in *America*, ties.
 from the Payment of any Customs or
 Duties, or from being subject to such
 Restrictions and Regulations to which
 the same now are, or shall hereafter
 be liable by virtue of the Laws and Sta-
 tutes of this Realm.

And be it enacted by the Authority Prize
 aforefaid, That all Prize Ships or Vess- Ships con-
 sels which shall be legally condemned, demned
 shall, to all Intents and Purposes what- to be con-
 soever, be considered as *British* built sidered as
 Ships or Vessels, and be deemed and *British*
 taken as such, and shall be entitled to built Ships
 have and sub-

ject to like
Regula-
tions.

Clause in
Act 12
Car. II.

have and enjoy all and every the same Rights, Liberties, Privileges, and Advantages, in all Respects whatsoever, with *British* built Ships or Vessels, and shall be subject and liable to all and every the Rules and Regulations that *British* built Ships or Vessels are subject and liable to; any Law, Custom, or Usage to the contrary thereof in any wise notwithstanding.

And whereas by a Clause in an Act of Parliament passed in the Twelfth Year of the Reign of King *Charles* the Second, intituled, *An Act for the encouraging and increasing of Shipping and Navigation*, it is enacted, That no Goods or Commodities of the Growth, Production, or Manufacture of *Muscovy*, or of any the Countries, Dominions, or Territories to the Great Duke or Emperor of *Muscovy* or *Russia* belonging; as also, that no Sorts of Masts, Timber, or Boards, no Foreign Salt, Pitch, Tar, Rosin, Hemp or Flax, Raisins, Figs, Prunes, Olive Oils, no Sort of Corn or Grain, Sugar, Pot-Ashes, Wines, Vinegar, or Spirits called *Aqua Vitæ*, or Brandy Wine, should from and after the First Day of *April*, which was in the Year of our Lord One thousand Six hundred and Sixty-one, be imported into *England*, *Ireland*, *Wales*, or Town of *Berwick* upon *Tweed*, in any Ship or Ships, Vessel or Vessels whatsoever, but in such as do truly, and without Fraud, belong to the People thereof,

ple thereof, or some of them, as the true Owners and Proprietors thereof, and whereof the Master, and three Fourths of the Mariners at least, are *English*; and that no Currants, nor Commodities of the Growth, Product, or Manufacture of any of the Countries, Islands, Dominions, or Territories to the *Othoman* or *Turkish* Empire belonging, should, from and after the first Day of *September*, which was in the Year of our Lord One thousand Six Hundred and sixty one, be imported into any of the forementioned Places, in any Ship or Vessel but which is of *English* Built, and navigated as aforesaid, and in no other, except only such Foreign Ships and Vessels as are of the Built of that Country or Place, of which the said Goods are the Growth, Production or Manufacture respectively, or of such Port where the said Goods can only be, or most usually are first shipped for Transportation, and whereof the Master, and three Fourths of the Mariners at least, are of the said Country or Place, under the Penalty and Forfeiture of Ship and Goods: And whereas the selling of *British* built Ships to Foreigners is a beneficial Branch of Trade, and ought therefore to be encouraged, and it is highly reasonable that *British* Ships so sold to, or being the Property of Foreigners, should enjoy the same Privileges in these Kingdoms, as if they

I were

The recited Clause not to prohibit the Importation in *British* built Vessels, of the Goods or Merchandizes mentioned therein, so as such Ships are navigated as herein directed.

were of the Built of the respective Countries or Places from whence such Ships do come : Now, be it further enacted by the Authority aforesaid, That from and after the said Seventeenth Day of *May*, One thousand seven hundred and fifty six, and during the present War with *France*, and no longer, the said recited Clause in the said Act of the Twelfth Year of the Reign of King *Charles* the Second, shall not extend, or be construed to extend, to hinder or prevent any Person or Persons whatsoever, from importing into the Kingdom of *Great Britain* or *Ireland*, any of the Goods or Merchandizes mentioned and expressed in the aforesaid Clause, in Shipping built in *Great Britain*, *Ireland*, the Islands of *Guernsey* or *Jersey*, or in any of the Lands, Islands, Dominions, and Territories, to his Majesty in *Africa*, *Asia*, or *America* belonging, or in his Possession, so as the Master, and Three Fourths of the Mariners at least, belonging to and navigating any such Ship or Vessel, are *British*, or of the same Country or Place of which the said Goods are the Growth, Production, and Manufactures respectively, and not otherwise.

Goods Imported in *British* built Ships to, and the Property of Foreigners, al-
 Provided always, That all Goods and Merchandizes imported into *Great Britain* or *Ireland*, in Ships belonging to, and the Property of Foreigners, al-
 being the though *British* built, shall pay Aliens, and

and all other Duties, in the same Manner, as if such Ships were foreign built.

And, as a further Encouragement to the Officers, Seamen, Marines, Soldiers, and others, on Board his Majesty's Ships of War, as also of Privateers, to attack, take, and destroy, any Ships of Force belonging to the Enemy; be it enacted by the Authority aforesaid, That there shall be paid by the Treasurer of his Majesty's Navy, upon Bills to be made forth by the Commissioners of the Navy, to be paid according to the Course thereof, without Fee or Reward, unto the Officers, Seamen, Marines, Soldiers, or others, that shall have been actually on Board any of his Majesty's Ship or Ships of War, or Privateer or Privateers, in any Action where any Ship or Ships of War or Privateers shall have been taken from the Enemy, sunk, burnt, or otherwise destroyed, since his Majesty's Declaration of War against *France*, dated the said Seventeenth Day of *May*, One thousand Seven hundred and fifty six, five Pounds for every Man which was living on Board any Ship or Ships so taken, sunk, burnt, or otherwise destroyed, at the Beginning of the Engagement between them; the Numbers of such Men to be proved by the Oaths of three or more of the Chief Officers, or Men, which were belonging to the said Ship or Ships of War,

Property
of Fo-
reigners,
to pay
Aliens
Duty.

Bounty
Money
payable to
the Cap-
tors by
the Navy
Office, for
all Men
on Board
the Ene-
mies Ships
taken or
destroyed.

Numbers
to be a-
scertained
upon
Oath;

or Privateers of the Enemy. or belonging to any of them, at the Time of her or their being taken as Prize, sunk, burnt, or otherwise destroyed, before the Mayor, or other Chief Magistrate of the Port within any of his Majesty's Dominions, whereunto any Prize, or Officers, or Men of such Ships, as were sunk, burnt, or otherwise destroyed, shall be brought, or before the *British* Consul, or Vice Consul, residing at any Neutral Port to which such Prize, or Officers, or Men, shall be brought; which Oaths the said Mayor, or other Chief Magistrate of any such Port, or Consul, or Vice Consul, are hereby respectively impowered and required to administer, and shall forthwith grant a Certificate thereof, without Fee or Reward, directed to the Commissioners of the Navy; upon producing which Certificate to the Commissioners of his Majesty's Navy, together with an authentic Copy of the Condemnation of such Ship so taken; or if such Ship be sunk, burnt, or otherwise destroyed, on producing only a Certificate from the Mayor, or other Chief Magistrate, or Consul, or Vice Consul, as aforesaid, the said Commissioners of his Majesty's Navy, or such Person or Persons as they shall appoint for that Purpose, shall, according to the Course of the Navy, within Fifteen Days, make out Bills for the Amount of such Bounty, directed

and a Certificate to be granted thereof, and produced to the Commissioners of the Navy, with Copy of Ship's Condemnation; unless the Ship be sunk or destroyed.

rected to the Treasurer of the Navy, Dividend payable to, and to be divided amongst the Officers, Seamen, Marines, and Soldiers, on Board his Majesty's Ships of War, in Manner, Form, and Proportion, as by his Majesty's Proclamation to be issued for that Purpose shall be directed and appointed; and amongst the Owners, Officers, and Seamen of any private Vessel, or Ship of War, in such Manner and Proportion, as by any Agreement in Writing they shall have entered into for that Purpose, shall be directed.

Provided nevertheless, That in all Where Cases where such Oath and Certificate such Oath cannot be administered and granted at and Certificate the first Port whereunto any Prize, or Officers or Men of such Ships as shall cannot be be taken, sunk, burnt, or otherwise made and destroyed, shall be brought, such Oath had at the or Oaths relating to any Prize or Prizes First Port, that shall be taken, or to any Ships of his Majesty's Enemies, that shall be sunk, burnt, or otherwise destroyed, as aforesaid, shall and may be administered and taken by and before the Mayor, or the same other Chief Magistrate of any Port may be within any of his Majesty's Dominions, made and or by or before the *British* Consul, or had at any Vice Consul, residing at any Neutral other Port whereunto any Prize or Prizes, or Officers or Men of any Ships belonging to his Majesty's Enemies, as shall be taken, sunk, burnt, or otherwise destroyed,

Oath being made of such Inability at the first Port.

Certificate granted thereupon to be valid.

Bills for Bounty Money to be paid to Agents,

stroyed, shall at any Time afterwards be brought (Proof being first made by Affidavit before such Person or Persons of the Inability of making such Oath or Oaths, and obtaining such Certificate, at the said first Port) and the Mayor, or other Chief Magistrate, Consul, or Vice Consul, shall thereupon grant such Certificate and Certificates as are herein before directed; which Certificate and Certificates shall be good and effectual to all Intents and Purposes, as if the same were granted by the Mayor, or other Chief Magistrate, Consul, or Vice Consul of the Port to which such Prize or Prizes, Officers or Men as aforesaid, shall be first brought; any Thing herein contained to the contrary thereof in any wise notwithstanding.

And be it further enacted by the Authority aforesaid, That the Bill or Bills to be made out for the Bounty hereby granted to the Commanders, Officers, Seamen, Marines, Soldiers, and others, of his Majesty's Ships of War, for taking, sinking, burning, or otherwise destroying, any Ships of War, or Privateers, belonging to any of his Majesty's Enemies, shall be made payable to such Person or Persons as shall be authorized and appointed by the Flag Officers or Flag Officer, Captains or Captain, Officers or Officer, Ships Companies, or Ship's Company, and others, intitled thereunto, in like Man-

ner

ner as herein before is directed for the nominating and appointing Agents for Appraisements and Sales to be made as aforefaid ; the fame to be diftributed and divided by the faid Perfon or Perfons fo authorized and appointed amongst the Captors, in fuch Manner, Form, and Proportion, as aforefaid ; the feveral Shares of which Captors, if not legally demanded within Three Years after publick Notification, and alfo of fuch as fhall run from his Majefty's Service, fhall be applied to the Ufe of *Greenwich Hospital* : And that the Bill or Bills to be made out for the Bounty hereby granted to Privateers for taking, burning, finking, or otherwife destroying, any Ships of War, or Privateers, belonging to any of his Majefty's Enemies, fhall be made payable to fuch Perfon or Perfons as fhall be nominated and appointed by the Owner or Owners, Officers and Seamen of fuch Privateer or Privateers, who fhall have taken, funk, burnt, or otherwife destroyed the fame, or the major Part of them ; to be divided in fuch Manner and Proportions, as fhall have been agreed on by them as aforefaid.

and to be divided amongst the Captors.

Shares not demanded within 3 Years, to be paid over to *Greenwich Hospital*.

Bounty Money to Privateers, to be divided as agreed among themfelves.

Provided always, and be it enacted, That if any Ship, Veffel, or Boat, taken as Prize, or any Goods therein, fhall appear, and be proved in the Court of Admiralty, to have belonged to any of his Majefty's Subjects of *Great Britain*

Ships or Goods belonging to His Majefty's Subjects

taken as
Prize by
the Ene-
my, and
retaken
by the
King's
Ships, or
Priva-
teers,

to be re-
stored, on
paying a
Salvage in
Propor-
tion to
the Time
they were
in the
Enemy's
Hand.

*Britain or Ireland, or any of the Do-
minions and Territories remaining and
continuing under his Majesty's Pro-
tection and Obedience, which were be-
fore taken or surprized by any of his
Majesty's Enemies, and at any Time
afterwards again surprized and retaken
from his Majesty's Enemies by any of
his Majesty's Ships of War, or any
private Man of War, or other Ship,
Vessel, or Boat, under his Majesty's
Protection and Obedience, that then
such Ships, Vessels, Boats, and Goods,
and every such Part and Parts thereof,
as aforesaid, formerly belonging to such
of his Majesty's Subjects, shall, in all
Cases, be adjudged to be restored, and
shall be by Decree of the said Court of
Admiralty accordingly restored to such
former Owner or Owners, or Pro-
prietors, he or they paying for and in
lieu of Salvage, if retaken from the
Enemy by one of his Majesty's Ships
of War, One Eighth Part of the true
Value of the Ships, Vessels, Boats and
Goods respectively, so to be restored ;
which Salvage shall be answered and
paid to the Captains, Officers, and Sea-
men, in the said Man of War, to be
divided in such Manner as before in this
Act is directed touching the Share of
Prizes belonging to the Flag Officers,
Captains, Officers, Seamen, Marines,
and Soldiers, where Prizes are taken by
any of his Majesty's Ships of War; and*

if

if taken by a Privateer, or other Ship, Vessel, or Boat, before it has been in the Possession of the Enemy Twenty four Hours, One Eighth Part of the true Value of the said Ships, Vessels, Boats, and Goods; and if it has been in the Possession of the Enemy above Twenty four Hours, and under Forty eight Hours, a Fifth Part thereof; and if above Forty eight Hours, and under Ninety six Hours, a Third Part thereof; and if above Ninety six Hours, a Moiety thereof; all which Payments to be made to any Privateer, or other Ship, Vessel, or Boat, shall be without any Deductions; and if such Ship so retaken by any of his Majesty's Ships of War, or by any private Man of War, shall appear to have been, after the taking by the Enemy, by them set forth as a Man of War, the former Owners and Proprietors to whom the same shall be restored, shall be adjudged to pay, and shall pay for Salvage, the full Moiety of the true Value of the said Ship so taken and restored, without Deduction as aforesaid; any Law, Custom, or Usage, to the contrary notwithstanding.

Payment
of Salvage
to be
without
Deduction.

If the Ship
retaken
was fitted
out by
the Enemy
as a Man of
War,
Owner to
pay for
Salvage
the Moiety
of the
Value.

And be it further enacted by the Authority aforesaid, That in case any Ship or Vessel, or any Goods or Merchandize, shall be taken by any Privateer through Consent, or clandestinely, or by Collusion or Connivance, such Ship and

Ships or
Merchandise
taken
by Collusion
by Privateers,
and

forfeited
to His
Majesty
with the
Bond ;

One Moi-
ety to the
Crown,
the other
to the
Prosecu-
tor,

and if so
taken by
a King's
Ship, the
Captain
to forfeit
1000 *l*.

and Vessel, and such Goods and Merchandizes, and also the Ship's Tackle, Furniture, Apparel, and Ammunition, of such Privateer, shall, upon Proof thereof to be made in his Majesty's Court of *Exchequer*, or in the Court of Admiralty, be declared and adjudged to be good Prize to his Majesty ; and one Moiety thereof shall be to the Use of his Majesty, his Heirs, and Successors, and the other Moiety to the Use of such Person who shall discover and sue for the same ; and the Bond given by the Captain of such Privateer shall be, and is hereby adjudged to be forfeited to his Majesty ; and in case any such Ship or Vessel, or any Goods or Merchandizes, as aforesaid, shall be taken by any Man of War, through Consent, clandestinely, or by Collusion or Connivance of the Commander or Captain, such Commander or Captain shall forfeit the Sum of One thousand Pounds ; one Moiety thereof to the Use of His Majesty, His Heirs, and Successors, and the other Moiety to the Use of such Person who shall discover and sue for the same ; to be recovered by Action of Debt, Bill, Complaint, or Information, in any of His Majesty's Courts of Record ; wherein no *Essoin*, Protection, Privilege, or Wager of Law, or any more than one *Impar lance*, shall be allowed ; and such Captain, or Officer, shall forfeit his Command and Employment, and

and shall be, and is hereby disabled and made incapable of any Office or Employment under His Majesty, during the Space of Seven Years; and the said Goods and Merchandizes, and the Ship, Tackle, Apparel, Furniture, Guns, and Ammunition, so taken by Collusion, shall be, and is hereby adjudged to be, good Prize to His Majesty.

and be suspended for 7 Years, and the Ship and Goods forfeited.

And be it further enacted by the Authority aforesaid, That no Person or Persons belonging to any of His Majesty's Ships or Vessels of War, or to any Merchant Ship employed in His Majesty's Service, who shall run away, or withdraw him or themselves from the Ship or Vessel, by which any Prize or Prizes shall be taken from any of His Majesty's Enemies, or otherwise from His Majesty's Service, before or after Notification shall be given by the Persons or Agents appointed as aforesaid, of the Day appointed for the Payment of the several Shares to the Captors of the said Prize or Prizes, shall have, or be intitled to have, or claim any Interest in, or Benefit of the said Share or Shares, of the said Prize or Prizes, or the Bounty Money aforesaid, or any which is Part thereof; but such Share and Shares to be paid of such Prize and Prizes, and Bounty Money, shall go and be paid to the Use of Greenwich Hospital.

Run Men forfeit their Share of Prize and Bounty Money;

Greenwich Hospital;

Provided

and if they Run, or Persons shall, or do run away, or after Notification, to lose what then remains of their Share in the Agents Hands.

Agents, within 3 Months after the Day appointed for First Payment, to transmit to the Treasurer of *Greenwich Hospital*, an Account of the Produce of such Prize;

Provided always, That if any Person or Persons shall, or do run away, or withdraw him or themselves, from any such Ship or Vessel, as aforesaid, after Notification given as aforesaid, he or they shall forfeit and lose such Part of his and their Share and Shares of the said Prize or Prizes, and Bounty Money, as shall be remaining in the said Agent or Agents Hands, at the Time of his and their running away, or withdrawing him or themselves; any thing herein before contained to the contrary thereof in any wise notwithstanding.

And be it enacted by the Authority aforesaid, That all and every Person and Persons, Agent and Agents, and others who shall sell, or otherwise dispose of any Prize or Prizes, so to be taken as aforesaid, from any of his Majesty's Enemies, shall, within the Space of three Calendar Months next after the Day to be appointed for the first Payment or Distribution to the Captors of such Prize or Prizes made in pursuance of such publick Notification as aforesaid, make out and transmit, or deliver unto the Treasurer of the said Royal Hospital at *Greenwich* for the Time being, or to such Person or Persons, as he shall for that Purpose depute or appoint, a true State and Account in Writing, under the Hand or Hands of such Agent or Agents, or Person or Persons so employed, of the Produce of all such Prize and

and Prizes as aforesaid, together with and Pay-
 an Account of the Payments of the se- ment of
 veral Shares to the Captors, as shall Shares;
 then have been really and *bona fide* by
 him or them respectively paid; and also
 that all and every Person and Persons and also
 authorized and appointed by this present transmit
 Act, to receive Bills for the Bounty a like Ac-
 hereby granted, shall, within the like count of
 Space of three Calender Months, next the Boun-
 after the Day appointed for the first ty Money;
 Payment or Distribution of such Bills,
 for the Bounty as aforesaid, in the like
 Manner make out and transmit, or de- He to bus
 liver to the Treasurer for the Time be- each annu
 ing of the said Hospital, or to his suffi- the C- niamor
 cient Deputy, a true State and Account the Librie
 in Writing, under his or their Hand or ingation H
 Hands, of the Payment and Distribu- tion to the
 tion of such Bills; and further that all
 and every Person and Persons, Agents
 and others, that by Virtue of this Act
 shall sell or dispose of any Prize or
 Prizes, which shall at any Time or
 Times hereafter be taken from the said
 Enemy, by any of His Majesty's Ships
 or Vessels of War, or that shall receive
 or dispose of any Bill or Bills for Boun-
 ty, such Person and Persons, Agents and
 others, so selling and disposing thereof,
 shall, within the Space of three Calen-
 der Months next after Expiration of the
 Term of three Years, limited by this in 3 Years
 Act, make out an exact Account in after, to
 Writing, of the Produce of such Prize make out
 and on Oath,

and trans- and Prizes, Bill and Bills, for Bounty;
mit a like as also of the Payments of the several
Account Shares to the respective Captors, toge-
of the ther with a true and just Account upon
Produce Oath, to be taken before the Treasurer
and Pay- of the said Hospital for the Time be-
ments of ing, or any other Person or Persons, by
such him for that Purpose deputed and au-
Prizes thorized, in Writing under his Hand
and Boun- and Seal (which Oath the said Trea-
ty Money, surer of the said Hospital, and his suffi-
cient Deputy and Deputies, authorized

and of all
Sums then
remain-
ing in
their
Hands,

which
are to be
paid over
at the
same
Time to
the Trea-
surer of
the said
Hospital.

Agents
neglecting
to render
such Ac-
counts
and Pay-

as aforesaid, is, and are hereby autho-
rized and impowered to administer) of
all Sum and Sums of Money as shall be
then remaining in such Agent or Agents,
or Persons, Custody, Power, or Posses-
sion, and shall at the same Time deli-
ver, or cause to be delivered to the
Treasurer of the said Hospital for the
Time being, or to his sufficient Deputy
or Agent, the said Accounts so attested
upon Oath as aforesaid, together with
all such remaining Sum and Sums of
Money then so left, and remaining in
his or their Hands as aforesaid, taking
from the said Treasurer, or his proper
Deputy or Agent, his or their Acquit-
tance or Acquittances, for the same.

And be it further enacted, That all
and every the Person and Persons here-
by directed to transmit or deliver all or
any the Accounts before mentioned,
who shall neglect or refuse to transmit
or deliver all or any such Account or
Accounts

Accounts to the Treasurer of the said ments, to
Hospital, or his said Deputy or Agent, forfeit
within the Time before limited and ap- 100 l.
pointed, in Manner and Form as is over and
herein before mentioned, or who shall above the
neglect or refuse to pay over all and eve- Money
ry such Sum and Sums of Money, as then in
shall remain in his or their Hand or their
Hands, Power, Custody, or Possession, Hands.
after the Term of three Years, to be
accounted as aforesaid, shall, for every
such Offence, forfeit the Sum of one
hundred Pounds, over and above the
Money then in such Agents Hands;
one third Part whereof shall belong to One
His Majesty, and the remaining two Third to
Thirds to the said Royal Hospital, to be the King,
recovered with the Costs of Suit, by Ac- and the
tion of Debt, Bill, Plaint, or Informa- rest to tho
tion, in any of His Majesty's Courts of Hospital,
Record, in which no Essoin, Protec-
tion, Privilege, or Wager of Law, or
more than one Impar lance shall be al-
lowed.

And be it further enacted, That if If there
any Fraud, Collusion, or Deceit, shall appear
be wittingly or willingly made, used, any Fraud
committed, permitted, or done, or sus- or Collu-
fered, in making, stating, or ballan- sion in
cing, any such Accounts, then every such Ac-
Person or Persons, who shall be thereof counts,
duly convicted, and his and their Aiders Persons
and Abettors, shall forfeit and pay for concerned
every such Offence, over and above the therein to
Penalties and Punishments inflicted by forfeit
100 l. or
this, ra.

One Third to the King, One to the Hospital, and One to the Prosecutor. this Act, the Sum of one hundred Pounds, one third Part whereof to be to the Use of his Majesty, and one other Third to the Use of the said Hospital, and the other Third to the Informer who shall sue for the same, to be recovered with Costs of Suit, by Action of Debt, Bill, Plaint, or Information, in any Court of Record, in which no Essoin, Protection, Privilege, or Wager of Law, or more than one Imparlance shall be allowed.

And whereas good and necessary Laws have been made, and are still in Force within several of His Majestys Colonies or Plantations in *America*, for preventing the carrying off from the said Colonies or Plantations, any Servant or Slave without the Consent of the Owner, or the carrying off from thence any other Person or Persons whatsoever, until such Person shall have taken out his Ticket from the Secretary's Office, within such respective Colony or Plantation, in such Manner and under such Penalties and Forfeitures, as in and by the said several Laws is declared and provided; be it therefore further enacted by the Authority aforesaid, That all Commanders of private Ships of War, or Merchant Ships, having Letters of Marque, shall upon their going into any of those Ports or Harbours be subject, and they are hereby determined in *British* to be subject to the several Directions, Provisions,

COURT of ADMIRALTY.

FOR

Provisions, Penalties, and Forfeitures in Colonies
and by such Laws made and provided; in going
any thing in this Act contained to the into the
contrary thereof in any wise notwithstanding Ports
there:

Provided always, That nothing in His Ma-
this Act contained shall be construed to jesty im-
restrain His Majesty, His Heirs and powered
Successors, from giving such further to give
Rules and Directions to His respective such fur-
Courts of Admiralty for the Adjudication ther Rules
and Condemnation of Prizes, as by His and Direc-
Majesty, His Heirs and Successors, with tions to
the Advice of His or Their Privy Coun- the Courts
cil, shall be thought necessary or pro- of Admi-
per. ralty, as

And whereas in all private Ships of He shall
War or Merchant Ships that shall take judge
out Letters of Marque, it is expedient proper.
for the better Discipline and Govern-
ment of such Ships; that all Persons
who shall enter themselves on Board the
said Ships, should be under proper Re-
gulations to pay Obedience to the lawful
Commands of the Captains and Chief Offences
Commanders of the said Ships; be it committed
therefore enacted by the Authority afore- on
said, That all Offences committed by Board
any Officer or Seaman on Board any Pri-
vateer or Merchant Ship taking Let- vateers,
ter of Marque during the present War punishable
with *France*, shall be punished in such like Man-
Manner as the like Offences are pun- ner as in
nishable on Board his Majesty's Ships of the King's
War. Ships.

Crimes
cogni-
zable on-
ly by a
Court-
Martial,
to be tri-
ed by a
Court-
Martial.

Provided always, That all Offenders who shall be accused of such Crimes as are cognizable only by a Court-martial, shall be confined on Board such Privateer or Merchant Ship carrying Letter of Marque on which such Offence shall be committed, until they shall arrive in some Port of *Great Britain* or *Ireland*, or can meet with such a number of his Majesty's Ships of War Abroad, as are sufficient to make a Court-martial; and upon Application made by the Commander of such Privateer or Merchant Ship carrying Letter of Marque, to the Lord High Admiral of *Great Britain*, or Commissioners for executing the Office of Lord High Admiral of *Great Britain* for the Time being, or the Commander in Chief of his Majesty's said Ships of War Abroad, the said Lord High Admiral, or Commissioners for executing the Office of Lord High Admiral of *Great Britain*, for the Time being, or any Three or more of them, or such Commander in Chief Abroad, are hereby authorized and required to call a Court-martial for trying and punishing the said Offences.

Registers
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And be it further enacted by the Authority aforesaid, That the Register or Registers of all and every the Court and Courts of Admiralty in any of his Majesty's Plantations in *America*, or elsewhere, in any other of his Majesty's Dominions, shall yearly and every Year

upon

upon the Twenty third Day of *October*, *Greenwich* or within Three Calendar Months next after the same, make out and transcribe true Copies of all and every such Letter and Letters of Attorney as shall be so registered in the said Court or Courts, to which the Judge and Judges of the said Court and Courts shall affix his and their Seal of Office, and then the said Register and Registers shall transmit the same to the Treasurer of the said Royal Hospital at *Greenwich*, to be there registered, and to be inspected by any Person *gratis*; the Charges of which Copies, and affixing the Seal or Seals thereto, and transmitting the same to the Treasurer of the said Hospital, shall be paid by the said Agent or Agents at the Time of making such Registry as aforesaid; and in case such Register or Registers shall neglect or refuse to transcribe and transmit such Copy and Copies of the said Letter and Letters of Attorney in Manner aforesaid (any Ship or Ships in that Time sailing from such Port or Place to any Port or Ports in *Great Britain*) such Register and Registers so neglecting or refusing, shall forfeit the sum of Five hundred Pounds, to be recovered by him or them who will sue for the same, by Action of Debt, Bill, Complaint, or Information, in any Court of Record in *Great Britain* or *America*, or in any other of his Majesty's Dominions, or elsewhere; in which

Hospital,
Copies of
all Letters
of Attorney registered in
their
Courts.

Judge to
affix his
Seal of
Office
thereto.

Agents to
pay the
Expences
thereof.

which no Effoin, Protection, or Waiver of Law, or more than one Imparlance shall be allowed.

And, for the more effectual making such Letters of Attorney Evidence of the Agency of the Person or Persons to whom the same shall be made; be it further enacted by the Authority aforesaid, That true Copies of such Letter and Letters of Attorney, and of Transcripts, under Seal, transmitted by the said Register or Registers of the Court and Courts of Admiralty in his Majesty's Plantations in *America*, and elsewhere within his Majesty's Dominions, and registered by the said Treasurer of *Greenwich Hospital*, shall, from Time to Time, and at all Times hereafter, be good and sufficient Evidence of the Agency of the Person or Persons to whom such Letter of Attorney is or shall be made; and, from Time to Time, and at all Times hereafter, shall be admitted, without further or other Proof thereof, to be legal Evidence, in all his Majesty's Courts of Record of Law or Equity; any Law, Custom, or Usage to the contrary thereof in any wise notwithstanding.

And be it further enacted by the Authority aforesaid, That no Agent or Agents for Prizes or Bounty Money shall be liable to be sued, impleaded, or arrested by any Person or Persons who shall be made run from his Majesty's Service,

Agents
not lyable
to be sued
by Run
Men in
the King's

Service, in the Lists to be duly certified of the Names of the Officers, Seamen, Marines, Soldiers, or others, who shall be actually on Board any of his Majesty's Ships of War at the taking of any Prize or Prizes, until the End of Three Months next after the Expiration of Three Years limited by this Act, for the claiming of Prizes and Bounty Money, unless the Person or Persons so made run, shall before any Action brought obtain a Certificate of his or their R or R's, being taken off; and the Forfeiture of his or their Shares of such Prizes and Bounty Monies, being discharged by the Commissioners of his Majesty's Navy who subscribed the said Lists, and shall produce such Certificate to the said Agent or Agents respectively; and unless the said Agent or Agents, on the producing of such Certificate or Certificates, shall refuse to pay the said Prize or Bounty-Money (in case the same shall be due and payable according to the Direction in his Majesty's Declaration) within two Months after any such Demand made, and such Certificate produced.

Service,
'till after
the Expi-
ration of
3 Years;

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R's be
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taken off,
and a
Certifi-
cate be
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for that
Purpose,
and the
Agent
thereupon
refuse to
pay the
Prize or
Bounty
Money.

And whereas great Numbers of Ships of Neutral Nations may pass the Seas laden with Naval Stores, intended to be carried to the Ports of *France*, whereby his Majesty's Enemies may not only be enabled and encouraged to fit out and arm Privateers to destroy the Trade of his

his Majesty's Subjects, but may also be supplied with Materials to build and fit out Ships of War to annoy and invade his Majesty's Dominions: And whereas divers Ships of Neutral Nations laden as aforesaid, may be taken and brought into the Ports of *Great Britain*, and the Purchase of such Naval Stores laden on Board such Ships of Neutral Nations for the Service of his Majesty, may in many Cases be expedient without proceeding to the Condemnation thereof; be it therefore further enacted by Authority aforesaid, That it shall and may be lawful to and for the principal Officers and Commissioners of his Majesty's Navy, or their Agent or Agents during the Continuance of the present War with *France*, to purchase on the Account or for the Service of his Majesty's Heirs and Successors only, all or any such Naval Stores as shall or may hereafter be brought into any of the Ports of this Kingdom by any of his Majesty's Ships or Vessels on Board any such Ships of Neutral Nations; and that the Commissioners and Officers of the Customs for the Time being, shall and may permit and suffer such Naval Stores so purchased as aforesaid, to be entered and landed within any of the Ports of this Kingdom; any thing in an Act of Parliament passed in the Twelfth Year of his late Majesty King *Charles* the Second

Commissioners of the Navy may purchase for the King's Use, Naval Stores on Board Neutral Ships brought into Port by the King's Ships.

Second (intituled, *An Act for encour- AA 12*
aging and increasing of Shipping and Car. H.
Navigation) contained to the contrary notwithstanding
 thereof in any wise notwithstanding. standing.

PROCLAMATION

Of the 25th of July 1706
 James to the Lord of Privy
 Council, that the said Pro-
 clamation of the Privy Council
 King's Ships of War, and Borne
 by Henry for the taking, sinking,
 burning, or otherwise destroying
 the Enemy's Ships of War or Pri-
 vateers, shall be divided into eight
 equal Parts, and be distributed in
 Manner following:

1. **THE** Captain or Commanding Officer
 of any of our Ships of War, who
 shall be actually engaged in
 the taking of any Prize or in sinking,
 burning, or otherwise destroying
 the Enemy's Ships of War, or Pri-
 vateers, shall be entitled to the first
 Part. But in Case the said Ship
 shall be taken, or destroyed, or
 otherwise destroyed, by any of our
 Ships of War, or Privateers, who
 shall be actually engaged in
 the taking of any Prize or in sinking,
 burning, or otherwise destroying
 the Enemy's Ships of War, or Pri-
 vateers, shall be entitled to the second
 Part. But in Case the said Ship
 shall be taken, or destroyed, or
 otherwise destroyed, by any of our
 Ships of War, or Privateers, who
 shall be actually engaged in
 the taking of any Prize or in sinking,
 burning, or otherwise destroying
 the Enemy's Ships of War, or Pri-
 vateers, shall be entitled to the third
 Part. But in Case the said Ship
 shall be taken, or destroyed, or
 otherwise destroyed, by any of our
 Ships of War, or Privateers, who
 shall be actually engaged in
 the taking of any Prize or in sinking,
 burning, or otherwise destroying
 the Enemy's Ships of War, or Pri-
 vateers, shall be entitled to the fourth
 Part. But in Case the said Ship
 shall be taken, or destroyed, or
 otherwise destroyed, by any of our
 Ships of War, or Privateers, who
 shall be actually engaged in
 the taking of any Prize or in sinking,
 burning, or otherwise destroying
 the Enemy's Ships of War, or Pri-
 vateers, shall be entitled to the fifth
 Part. But in Case the said Ship
 shall be taken, or destroyed, or
 otherwise destroyed, by any of our
 Ships of War, or Privateers, who
 shall be actually engaged in
 the taking of any Prize or in sinking,
 burning, or otherwise destroying
 the Enemy's Ships of War, or Pri-
 vateers, shall be entitled to the sixth
 Part. But in Case the said Ship
 shall be taken, or destroyed, or
 otherwise destroyed, by any of our
 Ships of War, or Privateers, who
 shall be actually engaged in
 the taking of any Prize or in sinking,
 burning, or otherwise destroying
 the Enemy's Ships of War, or Pri-
 vateers, shall be entitled to the seventh
 Part. But in Case the said Ship
 shall be taken, or destroyed, or
 otherwise destroyed, by any of our
 Ships of War, or Privateers, who
 shall be actually engaged in
 the taking of any Prize or in sinking,
 burning, or otherwise destroying
 the Enemy's Ships of War, or Pri-
 vateers, shall be entitled to the eighth
 Part.

THE

PROCLAMATION,

Of the 7th of July, 1756, pursuant to the said Act of Parliament, directs, that the neat Produce of all Prizes taken by the King's Ships of War, and Bounty Money for the taking, sinking, burning, or otherwise destroying the Enemy's Ships of War or Privateers, shall be divided into eight equal Parts, and be distributed in Manner following :

I. **T**O the Captain or Captains of any of our Ships of War, who shall be actually on board at the taking of any Prize, or at the taking, sinking, burning, or destroying any of the Enemies Ships of War, or Privateers, three eighth Parts.

II. But in Case any such Prize shall be taken, or Ship of War, or Privateer, of the Enemy be taken, sunk, burnt, or destroyed, by any of our Ship or Ships
of

of War, under the Command of a Flag or Flags, the Flag Officer or Officers being actually on board, or directing and assisting in the Capture, to have one of the said three eighth Parts; the said one eighth Part to be paid to such Flag or Flag Officers, in such Proportions, and subject to such Regulations, as are herein after for that Purpose mentioned.

III. To the Captains of Marines and Land Forces, Sea Lieutenants, and Master, on board any such Ships, one eighth Part, to be equally divided amongst them.

IV. To the Lieutenants and Quarter-Masters of Marines, and Lieutenants, Ensigns, and Quarter-Masters of Land Forces, Boatswain, Gunner, Purser, Carpenter, Master's Mate, Chirurgion, Pilot, and Chaplain, on board any such Ship, one eighth Part to be equally divided amongst them.

V. To the Midshipmen, Secretary to Flag Officers, Captain's Clerk, Master Sail-maker, Carpenter's Mates, Boatswain's Mates, Gunner's Mates, Master at Arms, Corporals, Yeomen of the Sheets, Coxswain, Quarter-Masters, Quarter-Master's Mates, Chirurgion's Mates, Yeomen of the Powder-Room, and Serjeant of Marines or Land Forces, on board any such Ships, one eighth

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Part to be equally divided amongst them.

VI. To the Trumpeters, Quarter-Gunners, Carpenter's Crew, Steward, Cook, Armourer, Steward's Mate, Cook's Mate, Gunsmith, Cooper, Swabber, ordinary Trumpeter, Barber, able Seamen, ordinary Seamen, and Marine or other Soldiers, and all other Persons doing Duty, or assisting on Board any such Ships, two eighth Parts, to be equally divided amongst them.

VII. And in Case any Sea Captain, inferior Commission, or Warrant Sea-Officers, belonging to any Ship of War, for whom any Shares of Prizes, or of the Bounty-Money, for Ships taken, sunk, burnt, or destroyed, are hereby allowed, be absent at the Time of the Capture of any Prize, or at the Capture, Burning, Sinking, or destroying any Ships of War, or Privateers of the Enemy, the Share of such Sea Captain, inferior Commission, or Warrant Sea-Officer, shall be cast into the Shares hereby allowed to the Trumpeters, Quarter-Gunners, Carpenter's Crew, Steward, Cook, Armourer, Steward's Mate, Cook's Mate, Gunsmith, Cooper, Swabber, ordinary Trumpeter, Barber, able Seamen, ordinary Seamen, and Marine or other Soldiers, and other Persons doing Duty, or assisting on board any

any such Ships, to be equally divided amongst them.

VIII. Provided, that if any Officer or Officers on board any of our Ships of War, at the Time of taking any such Prizes, or at the taking, sinking, burnings, or destroying, any Ships of War or Privateers, of the Enemy, shall have more Commissions or Offices than one, he or they shall be intitled only to the Share or Shares of the said Prizes, and of the Bounty-Money for the Enemies Ships of War, or Privateers, taken, sunk, burnt, or destroyed, which according to the abovementioned Distribution, shall belong to his or their respective superior Commissions or Offices.

IX. And we do hereby strictly enjoin all and every Commander and Commanders of any Ships of War taking any Prize, or taking, sinking, burning, or destroying, any of the Enemies Ships of War, or Privateers, as soon as may be, to transmit, or cause to be transmitted, to the Commissioners of our Navy, a true List of the Names of all the Officers, Seamen, Marines, Soldiers, or others, who were actually on board our Ships of War under his or their Command at the taking such Prize, or at the taking, sinking, burning, or destroying, any such Ships of War, or Privateers, of the Enemy; which List shall contain the Quality of the Service

of each Person on board; and be subscribed by the Captain or Commanding Officer, and three or more of the Chief Officers on board.

X. And we do hereby require and direct the Commissioners of our Navy, or any three or more of them, to examine, or cause to be examined, such Lists by the Muster Books of such Ships of War, and Lists annexed thereto, to see that such Lists doth agree with the said Muster Book and annexed Lists, as to the Names, Qualities, or Ratings of the Officers, Seamen, Marines, Soldiers, and others, belonging to such Ship of War; and, upon Request, forthwith to grant a Certificate of the Truth of any List transmitted to them, to the Agents nominated and appointed by the Captors, pursuant to the said Act, to take Care or dispose of such Prize, or of such Bounty-money for Ships taken, sunk, burnt, or destroyed; and also, upon Application to them, to give, or cause to be given, unto the Agents who shall, at any Time or Times, be appointed as aforesaid by the Captors, all such Lists from the Muster Book of any such Ships of War, and annexed Lists, as the said Agents shall find requisite for their Direction in paying the Produce of such Prizes, or the Bounty, in case any Bounty shall be due for taking the same, and to be

otherwise
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otherwise aiding and assisting to the said Agents as shall be necessary.

And as touching the said one eighth Part herein before-mentioned, to be granted to the Flag or Flag Officers, who shall be actually on board at the taking of any Prize, or at the taking, sinking, burning, or destroying, any Ships of War or Privateers, of the Enemy, or shall be directing and assisting therein, we have thought fit, and do, by these Presents, publish, order and declare, that the following Regulations be observed:

XI. First, that a Flag-Officer commanding in Chief, where there is but one Flag Officer upon Service, shall have to his own Use the said one Eighth Part of the Prizes taken, and Bounty-Money for the Enemies Ships taken, sunk, burnt, or otherwise destroyed by Ships under his Command.

XII. Secondly, that a Flag-Officer, sent to command at Jamaica, or elsewhere, shall have no Right to any Share of the Prizes taken, or Bounty-Money for Ships taken, sunk, burnt, or destroyed, by Ships employed there before he arrives at the Place to which he is sent, and actually takes upon him the Command.

XIII. Thirdly,

XIII. Thirdly, that when an inferior Flag-Officer or private Ships, are sent out to reinforce a Superior Flag-Officer at *Jamaica*, or elsewhere, the said superior Flag-Officer shall have no Right to any Share in the Prizes taken, or Bounty-Money for Ships taken, sunk, burnt, or destroyed, by them, before they arrive within the Limits of his Command, and actually receive some Orders from him.

XIV. Fourthly, that a Chief Flag-Officer returning home from *Jamaica*, or elsewhere, shall have no Share of the Prizes taken, or Bounty-Money for Ships taken, sunk, burnt, or destroyed, by the Ships left behind to act under another Command.

XV. Fifthly, that if a Flag-Officer is sent to command in the Out-Ports of this Kingdom, he shall have no Share of the Prizes taken, or Bounty-Money for Ships taken, sunk, burnt, or destroyed, by Ships that sailed from that Port by Order from the Admiralty.

XVI. Sixthly, that when more Flag-Officers than one, serve together, the eighth Part of the Prizes taken, and Bounty-Money for the taking, sinking, burning, or destroying, Ships of War,

or Privateers of the Enemy, by any Ships of the Fleet, or Squadron, shall be divided in the following Proportions, viz. if there be but two Flag-Officers, the Chief shall have two third Parts of the said one eighth Part, and the other shall have the remaining third Part; but if the Number of Flag-Officers be more than two, the Chief shall have only one Half, and the other Half shall be divided equally among the other Flag-Officers.

XVII. Seventhly, that Commodores, with Captains under them, shall be esteemed as Flag-Officers, with Respect to their Right to an eighth Part of Prizes taken, and Bounty-Money for Ships taken, sunk, burnt, or destroyed, whether commanding in chief, or serving under Command.

F I N I S.